The Show-Up

Charles E. Erbstein

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Stories Before the Bar

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By

CHARLES E. ERBSTEIN

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CHICAGO

To My Wife
Olivia King Erbstein

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Myself

LAW and the pursuit of the blindfolded but wary goddess of justice — if you will pardon the apparent distinction — leave but few illusions. If I have saved an illusion or two out of an experience spread over fifteen years in the courts, they may be charged to a robust instinct of sentiment.

But among them is no illusion about the regard in which I am held by the public. I am keenly aware that in the minds of a number of people I assume sinister proportions, crowned with a set of horns perhaps, and bearing about me somehow an aura of sulphur.

They picture me appearing in court like Old Nick in stage spectacles — popping up through a trapdoor in a puff of smoke. They fondly imagine me casting evil spells upon juries; hypnotizing judges; producing weird evidence as a magician jerks rabbits from a silk hat; making witnesses say things as if they were hinge-jawed mannikins and I a ventriloquist with a new line of gags.

The viewpoint of this public is not surprising. I have been made the villain — really I should like to write "hero" — in a thousand cases which the public has found sensational. I have been attacked publicly and privately by men really talented in that sort of thing. I have, to quote the somewhat whiskery jest, been "insulted by experts."

And I smile, maybe a bit ruefully, as I apply myself to the task of discussing intimately some of these spectacular cases. I realize that the obfuscating skill of the magician becomes laughably simple when exposed and explained.

I rather hang back from stripping the mephistophelian figure of the public imagination of its involuntary masquerade and leaving only a hard-working devil of another sort, in shirt-sleeves and with his nose deep in books of the law.

It is not that I have any hope of being a hero. It is that I am afraid I will not even come up to the specifications of a third-rate villian.

For instance, I hang back from telling the real story of how I was able to go into court in one of my biggest trials completely informed of the state's program for the day and prepared to side-step pitfalls and question their witnesses on secret matters. It was charged at the time that I actually had bribed certain associates of that state's attorney—a charge as lamentably unfair to them as to me.

As a matter of fact, I obtained my information in that case by the simple expedient of in-

stalling a dictagraph in an office and listening to secret conferences.

No great trick to that, was there? I fear it will seem even more ridiculously simple when I explain it fully in later chapters.

Then there have been amazing statements based on the fact that during my duty as a lawyer I have assisted in freeing 22 women charged with slaying. The conduct of the defendants has been the basis of much sage and shocked remark. Of course, it is quite unnatural for one on trial for one's life to display emotion. That such displays were in many instances the result of my work, I freely admit. But it was work and study — the study of human nature — and not carefully rehearsed theatricals, behind it.

It may not be right to rob the public of such color in a drab enough existence, but I will tell these things, anyway. Incidentally, I may tell my embarrassment at the client who wept everywhere — in my home, on my shoulder, in

my office — everywhere but on the witness stand in front of a jury.

There are many other stories of these women I helped free that I am determined to tell. But I warn you, much of the glamour may be removed and only a picture of a hard-working man left.

It may be you recall that during one famous trial I was accused of telegraphing by means of puffs on a lighted cigarette through the dark to a juror who was a telegraph operator and serving on a jury that was out one hundred fifty-seven hours. You will hear the "inside" of that, too, if you are interested enough to read these chapters.

I am going to empty the bag of so-called tricks.

Maybe I might begin and make my revelations startling by disclosing the fact that one can be a lawyer — even a criminal law lawyer — and still be "on the square."

The prosecution often seems to doubt this,

especially in the instance of myself. For that reason it caused a terrific scene in court on one occasion when I inadvertently placed on the jury-box rail a little toy ivory elephant I had bought for my baby daughter and was carrying in my pocket. The state saw some fiendish motive in the unwitting act.

On another occasion the prosecuting attorney grew suspicious when I was seized with cramps in court and could scarcely continue. He even told the judge in chambers that I undoubtedly was intoxicated, by way of checking the deep stratagem he thought I had in mind. The judge saw fit to call in as witness to my sober condition a war correspondent with whom I had had luncheon. I was allowed to continue. The next day I was under the care of a physician and nurse.

Ah, well, perhaps my conduct is not that of many other lawyers. I have no doubt they hope so as fervently as I. Perhaps some of my clients are justified in engaging an associate

counsel with a Prince Albert, black-ribboned glasses and an impressive way of saying "ahem" to offset what may be considered my lack of dignity. It may be likely that I should make more mention of "scintilla of evidence" and "predicate"—the two great verbal crutches of the more ponderous attorneys.

You shall judge for yourself by what you read.

There was nothing very sinister or villainous in the boy of eleven from Chicago's West Side when he first had the great urge to enter the legal profession. Be patient, I am not going to bore you with a lengthy history of my early struggles. Similar stories have been told a thousand fold better and by much more worthy men.

At eleven I was entrusted with a broom in the great Schlesinger and Mayer store. David Mayer, one of the members of the firm, selected me to carry several messages to the office of his brother, Levy Mayer. I am not

writer enough to give expression to even an idea of my feelings as I went into the law office, famous even then. But I remember how I used to sidle over and stroke the calfskin binding of the law books as if I were touching some sacred relic.

My future was decided. At an age when other boys are wondering how many more years they must go to grammar school, I was studying books on the law. My great privilege of visiting the office of Levy Mayer was cut off when I was discharged from Schlesinger and Mayer. I was "fired" for insubordination. I remember I told the manager of the department, who had accused a clerk of theft that the verdict was not warranted by the evidence. This legal sapience had no effect — except as it closed my mercantile career.

I had other jobs, many of them. My mind was too much on the law to make me an ideal employe. At the time I studied in law school I went to work in a shirt factory at 4 A. M. to

earn $4.00 extra a week to buy books needed in class. I worked for three hours, sweeping out. Then I worked during the rest of the day at what other jobs I could secure and went to school in the evening.

More often than not I used the faculty books for study. What money I had was just enough to scrape by the necessities of the day. My financial condition can be judged by the fact that my alma mater sued me for tuition dues after I had been graduated.

But graduated I was — and ready to carve out a career with a bold chisel in a few years — say, five or six — and make Choate and Webster appear as uninteresting as last summer's magazines. That is, I was ready to start just as soon as I could get the $5.00 necessary for the license fee.

Then came the Spanish-American War. Like thousands of other young fellows, I pined for a shot at the elusive Don. Also like thousands of others, my shooting was confined en-

tirely to rifle practice at Chickamauga Park. This was followed by enlistment in the 14th (regular) U. S. Cavalry and plenty of action pursuing the Moro.

In 1904 I returned to Chicago with hope and enthusiasm and $4.80 in cash.

In the manner of young lawyers, I felt my forte lay in some other direction than the collection of grocery bills and the suit of heartless corporations for damages.

The Fortunes of Albany Slim

WHEN I turned to the practice of Criminal Law it did not welcome me with open arms. There is something pitiful as it is humorous to me even now in the long wait my first legal associate and I endured before we had the slightest hint of a "case." And when it came it was only a hint.

Maybe it would interest you to hear of it. A youth and I had hired a dim sort of little room in the old building at LaSalle and Randolph Streets in which old Quincy No. 9 saloon was located. They served great free lunch in those days. With a nickel glass of beer you could get —but pshaw! Those days of struggle are gone

—so is the nickel glass—and the beer—to say nothing of the free lunch.

Anyway, more often I walked three miles to my home for lunch, while my partner waited patiently in the office for the client who never came. We took turns sweeping out the room.

I had a friend named Dave, who worked for a wholesale drug company. Every day before noon Dave was given the firm's receipts to carry to the bank for deposit. We were quite chummy. So one day when a real friend of mine told me that he had scared up a sure-enough client I did not hesitate to call on Dave.

"I've got a client coming in at 11 o'clock," I said. "I want to make a big front with him and give him the idea I'm one prosperous attorney. So you take that bank-roll and, before going over to the bank, drop in here. Time your arrival for eleven and bring it in just as if I had sent you to the bank with a check."

Perhaps those who claim to see trickery even in my appendicitis will point out that this foul

deceit was an indication of my future career. If so, they would find a ton of indication in the rest of the scenario improvised for the first client.

At 11 o'clock I had the office looking as if there never had been an idle moment there. The slim but painfully new library was spread out on the shaky table. On my desk were a number of letters, which I had typed myself, one finger at a time, ready to be signed. There were weighty documents, also typed personally, with long Latin words in them. The setting almost camouflaged the obviously fresh roll-top desk, of light oak, on which seven installments were overdue.

I was talking over the telephone, with the receiver hook held down, when the expected client walked into the office. I hung up abruptly, snatched up the documents, glanced through them and then began signing the dummy letters.

Out of the corner of my eye I could see he

was impressed. Then Dave dashed in with the bale of currency held in both hands.

"Here's the money from the bank, Mr. Erbstein," he said. I counted it all out in front of the two of them — there was just $2,700.

"Very good," I said, "Now be sure that the checks coming in this afternoon are deposited. I shall be in court until after banking hours."

I couldn't resist a final touch. I peeled a $10 bill from the bundle of currency. "And here's a little something for yourself," I said. "You've been overworked."

Dave thanked me and stepped out. My client got up from the chair in which he had been sitting. Impressed is not the word to describe his state. He was overwhelmed.

"I'm afraid you're too busy to take my case," he said. "It's not big enough. I'm sorry I disturbed you!"

And before I could assemble an argument he had left.

There was no stage setting when the first

real client and the first real "case"—and a mighty interesting one it was—turned up. In fact, the case walked in while I was half-dozing over one of the calfskin volumes and wondering if I might not have done better, after all, by sticking to the broom in the Schlesinger and Mayer store.

At first, the case dawned on my consciousness as a voice and the voice was saying:

"I'm a lamister from the big house. A beak slipped me a fimster. Some of the mob slipped me a rough and I crushed. I've seen nothing but elbows since and I'm afraid they'll make me. I can't be doing a moses all the time and I want to take a brodie with you for a mouthpiece to see I don't get too much of a jacketing."

Such was my introduction to "Albany Slim," my first real client. As he spoke I was interestedly watching him. I noticed first the dull and expressionless fixity of his eyes and then the nervous twitching of his face muscles.

I recognized the symbols of "the dope." I recognized, too, the sickish "prison pallor."

He was slender and well-dressed and, except for the eyes and the twitching, might have been any one of a million prosperous citizens on the street. At first, I did not realize that this man was to be the first of my clients. From his opening remarks I did not know whether I was listening to a tale of woe, a plea for help or the first installment of a novel in Esperanto.

Of course, I recognized an expression or two, but it was only after much questioning that I gathered Albany Slim had informed me that he was a fugitive from a penitentiary; that a judge had sentenced him to five years; that some of his confederates had smuggled a file in to him and he had escaped. Also, that since the escape he had seen nothing but detectives; that he was afraid they would recognize him; that he could not be in hiding all the time and, therefore, he was willing to take a chance with

me as his attorney to see that things were made as easy as possible for him.

While at that particular stage of my experience a client in any shape was a most welcome addition to my office fixtures, I honestly felt that I was not well enough acquainted with the criminal courts of Cook County to help Albany Slim make perfectly legal and regular his escape from the eastern penitentiary which he had left so informally.

I told Albany Slim as much. He chuckled. "Oh, I'm heeled all right," he said, "and here's 100 men to prove it." The "100 men" was a crisp hundred dollar bill. He had looked on my hesitation as inspired by doubt of his solvency. I determined that if Albany Slim wanted to take a chance with me — and $100 — I'd take a chance with the law in the case. I told him to return to the office next day.

I went to work. I read through page after page of the slim library. Then I took counsel with some of my classmates who also had gravi-

tated to the criminal branch of the law. Many and varied were their suggestions, but the concensus of their opinion seemed to be that the criminal law lawyer's right and left bowers are, respectively, the motion for a continuance and the writ of habeas corpus.

I concluded that this great "writ of right," as the lawyers term it, should be Albany Slim's mainstay in the fight for legalized freedom. As there can be no writ of habeas corpus without a prisoner, I decided that Albany Slim should allow himself to be arrested.

I considered Albany Slim mighty game when he accepted the plan without question. I considered his gameness even more highly after what he went through in the next day or two.

His adventures had an abiding effect upon my entire subsequent experience.

Albany Slim left my office determined to flaunt himself under the noses of the very detectives he had feared so much. He did so. They cast their eyes on him and then cast them else-

where. The same with uniformed officers. Albany Slim haunted the crowded corners of the Loop. Wherever two or three plain clothes men were gathered together, Albany also appeared. He sought them in saloons and poolrooms. He tried to act suspicious. But he did not even succeed in so much as being told to move on.

It was very discouraging. Albany Slim would come into the office dejectedly each evening and sit himself down wearily. "It's enough to make a guy blue," he said on the third evening. "If they don't make me tomorrow, I'll pull a little burglary on the detective bureau — anything to get in."

But there was no necessity for this drastic deed. Next day came the welcome news that Albany Slim had been arrested. He was taken as a suspicious character — by a policeman from Hegewisch, who was spending his day's furlough in the Loop to improve and enlarge his knowledge of detective methods.

An examination of his finger prints and a scrutiny of his "mug" (photograph), then as now in the art gallery of Capt. Evans of the Bureau of Identification, identified Albany Slim and disclosed the fact that he was "wanted" for escaping from the eastern prison. Preparations were made to take him back east.

Thereupon I stepped in with my petition for a writ of habeas corpus. I spent as much time and effort over it as I ever have over any legal document. I had had three days to polish it up.

Through the exertions of Albany Slim's friends, two property holders were found with sufficient sporting instinct to gamble with the State of Illinois that Albany would appear in court from time to time until the little matter was disposed of. Albany was admitted to bail.

Albany came up to the office once in a while to talk it over. I should have locked him in all the time. I could scarcely believe I really had a client. But Albany did not seem as much interested in it as I was. I believe he really felt

that he was fated to return to prison and, frankly, I feared what would happen to him when I strove against the experience of the prosecutor.

I was horrified, when the writ came on for a hearing, to learn that the state was represented by a celebrated "hanging prosecutor." He was an assistant state's attorney whose name and likeness had appeared time and again in the newspapers. As we took our places before the bench, I scarcely reached his shoulder. He had the voice of a fog-horn in splendid condition and the dignity and bearing of a department store doorman. I realized the inadequacy of my own voice as I heard him booming questions at witnesses.

They had been brought from the east to reclaim Albany Slim as a guest of the penitentiary. They piled up their testimony. Albany Slim's prospect grew dimmer and dimmer as they went on.

Then came the flash of light! Then came

the realization that the imposing "front," the sonorous voice and the impressive manner do not complete the attributes of the successful lawyer. The prosecutor had the documents with the hefty seals, witnesses and everything else to prove that someone had escaped from prison and that somebody should be sent back.

But he had nothing to show that the "somebody" was Albany Slim. Albany, under the sensible provision of our law, could not be required to give an opinion on the subject. And I still feel the thrill — it never has been duplicated in any other case I have handled — when I heard the verdict: "Relator discharged!"

I had won my first criminal case.

Do You Still Beat Your Wife?

IT MAY seem overdrawing the case to state that the vivid light oak upright piano or the purple plush patent chair in the parlor are responsible for the greater number of divorces which daily crowd court dockets. Yet it is a fact that but for this ugly burden of furniture many couples who have been split asunder might have been happy in domesticity to the point of bliss.

I draw this indictment advisedly and guardedly and only after an analysis of 1,772 divorce cases in which I have appeared as counsel. Do not for a moment consider that my charge is made against the vivid light oak upright merely

because of its violent hue; nor aimed at the purple plush patent chair because of the manner in which, figuratively, it hits one between the eyes. Not so. If they were to be judged on the score of pulchritude, one might easily reckon them as responsible for murder, manslaughter and assault with intent to kill.

The light oak upright and the patent plush chair are selected as the symbols of the great American "installment plan." It is the "installment plan" which is really responsible for so much marital woe. It makes marriage easy —in contemplation, at least—and it makes divorces excusable. If it seems unbelievable that this can be the truth, allow me to give you the tabulation of my 1,772 cases in which divorces have been granted and the statistical array of causes for the divorces by category:

"Installment plan"	656
Drink and cruelty	341
Cabarets and dance halls	178
Cooking	137

Vamps (both sexes)	122
Success of husbands	114
Court of Domestic Relations	95
Stage ambitions	83
Lack of children	21
Traveling jobs	15
Mothers-in-law	6
Miscellaneous	4
Grand Total	1,772

This classification has not been arrived at without considerable study and reflection. For instance, the broad item, "installment plan," may cover divorce cases which apparently came about through drink, other women or other men, cabarets or the like. But hunted to its source, the real reason is revealed in the "installment plan" furniture. Because of the "installment plan," men have been driven to drink, husbands and wives have sought other friendships — too often too intimate — or other scenes for relief. Indeed, I am placing the fig-

ure lightly. As a matter of fact, in no fewer than forty-two per cent of the cases in which I have appeared, the firms making a business of "easy payments" have taken back their furniture.

The engagement ring, purchased "so much down and so much a week" to show the other girls in the store or in the neighborhood, has lured thousands of young couples into the sea of matrimony on the flimsy raft of "easy payment" only to wreck them on the then hidden shoals of bankruptcy and divorce.

This "installment plan" menace does not strike alone at a class for which such plans are supposed to have been philanthropically designed. It finds its counterpart in the married pair of more substantial means who find "the easiest way" to hold their heads overhigh among their neighbors are charge accounts and visits to the loan shark. Higher in the financial scale, it reaches its tentacles into the homes where the limousine and the electric already

are mortgaged but where the pampered wife "just can't see why" her husband cannot afford to buy her a new town car with more fashionable upholstery. It is the same story of disillusionment and shattered ideals, sure to come because both illusions and ideals were built on the quicksands of impracticability and non-understanding.

Under the item "drink and cruelty," I have classed such cases directly resulting from the saloon evil. All too many cases which seem to come under this double itemization, as I have intimated, really had their beginning in the installment furniture worry. I have linked cruelty and drink because they are so linked in life. I might also add the item of "nagging," but this angle of the divorce problem crops up in nearly each of the twelve classifications I have allowed myself.

It was generally considered that following the advent of prohibition, the number of divorces would drop off. It was amazing to me to

discover that instead of this being true, the number of divorces actually increased. A cynical friend of mine professes to see in this the result of men suddenly becoming sober and seeing their wives' faults and women having the company of their dull husbands forced more upon them. I do not hold with my cynical friend's views. If prohibition is responsible for the increase it is because of the breach of the law, rather than its observance. I am told that the grade of bootleg liquor is very low and its motive power for brutishness and violence very high.

Cabarets and dance halls have made no mistakable mark on the divorce records. The musical sharps who claim the United States can never become great because of its lack of national music, folk songs and the rest, need only be faced with these results of American "jazz" music to be refuted. The saxophonist and the trap drummer are the real co-respondents in

many of the 178 cases classified under "cabarets and dance halls."

The evil results of "cooking," by which I classify the wife's lack of culinary skill or household art, are almost too well known to require comment from me.

But there certainly is a topic for discussion in the fact that its divorce results outstrip the ravages of the vamp, both male and female. I find the vamp vastly over-rated. In fact, neither the male or female variety could exist were it not for causes within the home, especially the installment furniture.

It may not be amiss at this time to point out that in 92 per cent of the cases in which men or women have persuaded a wife or husband to secure a divorce and marry the vamp in question, the resulting marriages have been unhappy—if indeed, they took place at all.

"Success of husbands" accounts for cases where men have achieved their ambitions in business, art or profession, and suddenly con-

sider themselves too good for the woman who struggled at their side and helped them win. It is in such cases that the female "vamp" gets in her deadliest work. I always recall the impassioned advice to women given by a client of mine.

"The worst woman in the world is too good for the best man in it," she said. "Don't be a slave to your husband. When he thinks he doesn't need you any more, he'll get another woman."

I am inclined to believe what she said, especially the first part of it.

The Court of Domestic Relations causes a great number of divorces because it is so easily accessible to the first hysterical woman who seeks it to "make trouble" for her husband, and who finds there sympathy to aid and abet her in her unhappy course. It is intrinsically a woman's court, and it is there that "it is the man who pays, and pays, and pays." Often he "pays, and pays" with a neatly contrived

suspended sentence and its threat of jail hanging over his head while he is paying allotments which must in many cases seem exorbitant, to say the least.

The difficulties caused by giddy stage ambitions and the lack of children are too common to need mention except in the broad classification.

Which brings us to the traveling salesman, who seems fairly to support the reputation for philandering which they — at least the married ones — warmly dispute.

And finally, we have the mother-in-law, derided as the cause of domestic difficulties since the first prehistoric cartoonist carved the original mother-in-law joke on the side of his cave — during his wife's absence, of course. In my experience I have always found mothers-in-law eager and willing to smooth out the domestic differences of their children. And this characteristic seems borne out in the statistical list.

Before I leave the subject, let me make the

general remark that I would sanction the ducking stool for scolds as soon as I would the whipping post for wife-beaters. To say nothing of the pillory and the rack for gossips who do as much harm as either.

And, without entering an academic discussion of divorce evils or remedies, allow me to end by narrating one of the saddest stories of my experience in the divorce courts.

It was told by a friend on the bench of a young woman he had known as a girl who came to him as a client in the second year of her married life. She came in tears and sobbed out that she wanted a divorce. "Why, I didn't know there had been a quarrel," exclaimed the judge. "Oh, t-t-there wasn't," she replied brokenly. "Has he abused you?" the judge pursued.

"Hal is not that sort of beast," she replied in quick defense.

"Is there another woman?"

"I don't think so," she wept.

"Then why do you want a divorce?" demanded the judge.

All the heart-breaking sorrow that ever overflowed into a woman's voice was in hers as she sobbed:

"Hal d-d-doesn't love me any more."

The Yellow Canary

IT WAS a little yellow canary that saved the situation for me in one of the most spectacular trials in which I appeared — the famous episode of Nellie Higgs, who killed her seducer.

I sincerely believe that the tiny, fluttering bird did more to acquit Nellie Higgs than any amount of cold legal logic or warm human appeal that I might have been able to bring before the jury.

Those who are fond of endowing me with the practice of black art and plain and fancy skulduggery certainly found inspiration for their imaginations in the little yellow canary. For that matter, the entire Higgs case supplied them with excellent material.

Not the least of the happenings was the finding of one of my business cards in Nellie Higgs' purse when she was arrested after the shooting. What is more, she admitted having visited my office just before the slaying, which was true. My fanciful friends winked wisely and leered. "Aha, this Erbstein will go too far," they said. "It is not enough for him to free palpably guilty women of murder, but he advises them how to proceed about the murder itself." So strongly did they put it that an impression may exist today that I have advised women to shoot their husbands. My friendly enemies would like it believed that I keep in my office safe revolvers of various caliber, stilettos and strange poisons for the use of my clients.

Let me reveal to you the true story of the business card, which has never been more than half told, and that of the little yellow canary, which has never been told at all.

At the time of the slaying I was in such

financial circumstances that the office rent loomed up as a monthly menace and the dairy lunch room became one of the benefactions of mankind. I was dashing around to the courts and working at top speed to keep ahead of the sheriff and his notice tacked on the door.

One afternoon as I was preparing for a spurt to court, a frail woman with big, sorrowful eyes entered my office and began to weep. I was in a hurry and I begged her to stop crying and tell me her story. After a bit she calmed down long enough to pour out the whole sordid narrative. She told me how a lodge brother of her husband had broken up her home. He had ruined her life, she said, and cast her off. Her husband had divorced her. He had been a co-respondent in a divorce case, she said. "I'm guilty, all right!" she sobbed, "but he's guilty too. He's got to do something for our boy. There was something wrong about the divorce. I've gone to his wife and she has scorned me. I confessed to his wife. In her presence, he

stood up and called me terrible names. It's been an awful thing, but I want to right that wrong I've done my boy and see that he is looked after."

I gathered finally that she wanted me to reopen the divorce case. She said that a clerk in the Superior Court had sent her to me. I said I would look it up the next day. She picked up one of my cards from the desk. I rushed to court on the case I had in hand.

The next I heard about the Higgs case was that evening. Mrs. Higgs had been arrested for murder. She sent word for me to come to see her in her cell. I went. She was no longer the sobbing woman. But there was something worse than tears in the stark tragedy of her deep eyes.

"There is really nothing to talk about," she said. "I've lost everything—my husband, my home and my heart."

I went back the next day, hoping that her mood had changed. Next day she seemed a

woman of marble. She spoke to no one. I did not get a word out of her, even during the inquest. While those on the other side were hinting that I was up to some special law-twisting stunt, I could not even hold a conference with my client.

Her sister and other relatives came to my office. Their stories were woven together into a drab tapestry picturing the mental torture of Mrs. Higgs, her wrong step and her love for her son. I looked up court files to corroborate her own allegations regarding her husband's divorce.

I sent for Higgs and he came. I asked him what he was going to do. He intended to do nothing for his wife. He would not even go to see her. If I remember rightly, I read him a lecture on the spot. Then I ordered him out of my office.

I went to visit my client day after day in the County Jail. In all, I went there 41 times with-

out getting a word from her. She was still the woman of marble.

Jailer Davies smiled as he saw me coming from the "bundle cage," where I sought to interview my client. I rather imagine he could see from my expression how desperate the situation was.

"Well, Charlie," he said one time, "this is one woman defendant who will go out of here with me — not with you."

When you recall that the jailer is present on the march to the gallows, his style of humor may be reckoned as far from inspiriting. But somehow it helped me with my determination to go on with the fight and solve this problem. Mrs. Higgs had no more money than I had. I had to interest experts in psychology as I was interested before they would visit her and try to dissect her mental condition. I could not retain them with anything more material than promises.

I went to the libraries and got every book I

could lay my hands on that might guide me rightly in the case.

Just before the trial was to begin I had my inspiration. I read of one case in a medical book where a woman rendered practically speechless by settled melancholy had been made to speak by an appeal to a subject closest to her heart. I remembered Mrs. Higgs' son.

That day Mrs. Higgs talked.

It is probable that many of you remember the sensation of that trial. From early in the morning until after court adjourned the corridors of the Criminal Court Building were jammed with men, women and children, trying to force their way into Judge Kersten's court, where the trial was held. The court room was packed. Moving picture men were on hand with their cameras. Bailiffs fought with the mobs. I am not going to wear out your patience reviewing that trial day by day. It is sufficient for the purpose of this history to state that never did a defendant's prospects seem

darker. The state was making the hardest kind of fight to convict the woman accused of murder. And the state seemed to be on the verge of victory.

When the day came for my address to the jury I was the most melancholy man on earth. I saw all the heartbreaking work I had put into the case gone for nothing. I ran over in my mind the theme of my appeal to the jury as I tramped from my office across the river to the Criminal Court Building. It was a bitterly cold morning. As I turned east from Clark Street I shrank from crossing the alleyway on the west side of the jail. It is through this alley that the bodies of hanged men are removed from the building.

I kept my head lowered, not so much against the cutting wind as to spare myself the sight down that grim passageway.

It was thus that I first saw the yellow canary. It was huddled, half-frozen and its golden feathers ruffled by the wind, against the mas-

sive, forbidding stones of the gray wall. I stepped over and picked it up in both my hands and spoke to it foolishly as one speaks to canary birds. It responded with a feeble "peep." It was a companion in misery. I always figured that the poor little songster probably had escaped from a cage in which it was kept by some actress living in the Revere House just across the way. It was a hotel much favored then by the players, and the women of the stage have a more than ordinary love for such pets.

For a moment I thought of going across the street and trying to find the owner of the bird. But the discouraging thought of the trial and my address to the jury came flooding back to me. I took the canary with me. I entered court just as Judge Kersten took the bench and the bailiff rapped with the gavel for order. I knew I was to speak as soon as court was opened. I slipped out of my overcoat. I remember it was a heavy black garment, some-

what frayed at the cuffs and pocket flaps, with a beaver collar.

I still carried the half-frozen, half-dead canary. In the usual hum and buzz before the courtroom settled down to its day's work I slipped the little yellow canary into the folds of the coat.

Three minutes later I had forgotten about the bird. I was attempting to make an appeal to the jury on behalf of Nellie Higgs. I'm afraid it was ragged eloquence I used. I was floundering in words and watching the jury for some sign that would show me I had struck a responsive chord.

I struggled for the right words and the moving inspiration. It seemed hopeless. The weight of the state's testimony was oppressive and brick by brick they had built their wall of evidence about us. I could feel that I was failing.

Then suddenly above my head sounded a "Whir-r-r" of wings unmistakable to the

hunter. I glanced around. I noticed Judge Kersten, one of the keenest sportsmen and best shots on the bench, instinctively alert. His arms were bent as if to level a gun. Then I saw my little yellow canary. It had warmed back into life and had escaped from the warm folds of the coat in which I had placed it. It was fluttering about the excited courtroom trying to escape. It threw its little body against the window panes.

"Stop! Stop! Stop!" The impressive bass voice of the prosecutor was booming out the words. The court room was in confusion. Everyone was watching the tragedy of the imprisoned canary seeking the freedom that was its right.

"What sort of a trick is this?" demanded the bass prosecutor. He demanded that the jury be sent from the room. It was most melodramatic. The prosecutor demanded that explanations be given in chambers. There he

insisted that the trial be halted until the bird was removed.

"Do you expect me to catch it?" asked Judge Kersten.

Bailiffs and policemen from the state's attorney's office were brought into the courtroom at double quick time and the hunt for the little yellow canary was on. A dozen of the burliest of the state's officers, armed with window poles and other improvised weapons, clambered over benches, crawled on window sills and lumbered about the room after the frightened and exhausted bird. Finally one of them with a window pole crushed out its tiny life against a radiator. He held it aloft triumphantly.

The bass-voiced prosecutor rumbled and gestured, dramatically. "Take that bird downstairs," he declaimed, "and hold it for further evidence."

He was making the most of his opportunity, but I was making the most of mine, too. The little yellow canary had brought me my theme

on its wings of gold. My original address was discarded for the one in which I likened my client, the defendant, to the little canary beating with its wings for freedom. The canary had been sacrificed to save the life of a woman. Mrs. Higgs was acquitted.

I'm rather fond of that address, but this is not the place to repeat it. Besides, it was fully reported in the newspapers at the time.

The prosecutor always insisted that I had plotted to turn the poor little canary loose in Judge Kersten's courtroom. They even intimated that I had connived with one of my associates and that, at a signal, he had loosed it from a cage which he kept concealed under his coat.

Utter nonsense, of course. Remember what I told you about how near bankruptcy the defense was at the time? Well, that day canary birds were listed at $14 each. The cheapest wicker cages were priced at $3.25. If two-by-four planks had retailed at 2 cents per plank I could not have bought a toothpick.

The Gray Cap

THE story of a "size 6" gray cap and a "size 7" head tells the whole story of the trial and acquittal of Lumann C. Mann, charged by the state with the killing of Fannie Thompson in a Michigan Avenue rooming house in 1909.

The Mann case was a series of sensations from the moment the body of Fannie Thompson was found, bound and strangled, and from the hour the young son of Orville Mann, of Oak Park, wealthy dealer in railway supplies, was arrested for the crime.

Grim features of the case held the public eye as the state knotted together the net of circumstantial evidence which seemed to bind young Mann beyond the slimmest hope of escape.

There was the fact that Fannie Thompson had been a servant in the Mann home. The handkerchief with which she was gagged bore the initial "B" and Mann's roommate was named Ben Brooks.

There was the signature, "J. H. Raymond," identified by Mann's divorced wife as Mann's writing. There was the testimony of Alice Hamilton, keeper of the lodgings and lady barber in the daytime, who positively identified Mann. There was Mann's eccentric behavior in court and on the witness stand.

With these and a score of other strong points the state wove its net. But behind all these and stronger than any of them was the "size 6" gray cap. As the trial got under way the whole case began to center on it. Not that I allowed my energies to rest with that one point. One of the first lessons in military tactics is never to make plans which depend on the lack of intelligence or of the stupidity of your opponent. It applies rather well in legal tactics, too. An-

other lesson in tactics, of course, is to be quick to take advantage of the failing of your adversary.

I believed in Mann's innocence from the start. I established that on the evening Fannie Thompson's slayer took her to the rooming house at 1242 Michigan Avenue, Mann was at his father's home in Oak Park. I discovered that he had written a letter to his sweetheart and posted it for special delivery. I produced the mailman who had collected the letter, the post-office clerk who had stamped it, the boy who delivered it and the girl who received it. Furthermore, I brought out that the same night Mann had attended with his sisters a social meeting of the Siloam Chapter of the Eastern Star and I obtained the lodge register, which he had signed, and found lodge members who had seen him. I considered the Lumann Mann alibi the nearest to perfect that I have ever encountered in all my experience.

But the "size 6" gray cap was even more

important. When it first bobbed up in the case it seemed like the destruction even of the "perfect alibi." Its texture would be able to check every move of the defense and convince the jury of Mann's guilt. It was introduced thus:

Mann was but a youth and possessed his full share of youth's love of adventure. He had wandered about a bit. Just before the slaying he had worked for one of the concessions in an amusement park. It was thus he met Ben Brooks, with whom he roomed at lodgings conducted by a family named Pinsky.

The police rushed to the Pinsky house. Sergt. George Chatt was assigned to the task of learning all he could from the Pinsky family. He did his work well. Searching through the room occupied by Ben Brooks and Mann the sergeant came upon the "size 6" gray cap. He seized it at once. Alice Hamilton had stated, after "identifying" Mann, that he had worn a gray cap. The cap was shown to her. She de-

clared at once that it was the cap worn by Mann the night Fannie Thompson was killed.

Before I go any further, I wish to add that Sergt. Chatt took his wife with him to the Pinsky lodgings. This was because she spoke German, the more familiar tongue of the Pinskys. Mrs. Chatt at the time of this writing is employed in my office. No doubt those who find something sinister in my every action will declare this to be some sort of secret reward for information. If they do, they will be overlooking the fact that Mrs. Chatt is a most efficient employee.

At any rate, the inspector directing the construction of the police case against Mann proceeded to make that gray cap one of the most important links in his chain of evidence. He even professed to have found blood stains on it and spoke largely of sending it to the coroner's chemist for analysis of the stains.

About this time, I may as well confess, that gray cap had the counsel for the defense mut-

tering to himself as he walked down the street and dreaming of strange headgear by night. Counsel for the defense, mindful of the first rule of tactics, was not making plans which depended on the stupidity of the enemy.

I did not see the cap until it was brought into the courtroom with the rest of the evidence. What a parade the state made of it! Each morning Sergt. Chatt entered the courtroom bowed under the burden of a big box. This he set before the jury. Then with a most solemn face he removed the bits of evidence one by one. With the air of an undertaker displaying his wares, he held each article up in plain sight before placing it on the table. At noon adjournment he would reverse the performance, only to repeat the show when court convened in the afternoon.

I often thought what a roar would have gone up if counsel for the defense had tried such hokum and sure-fire stuff as that.

In the state's bag of tricks were the ropes

with which Fannie Thompson was bound, the handkerchief with the initial "B," the register with the signature of the slayer—all the unpleasant details, including the "size 6" gray cap.

I was interested in the cap which was causing me so much uneasiness. I examined it closely. One of the first things I noticed was the mark on the band—"size 6." The day began to look a little brighter at once. One could not build one's plans upon a surmised stupidity on the part of one's opponent. But tactics demanded that one take advantage of his error. It was apparent to me at once that the police had blundered and blundered fatally.

That night I had a little chat with my client. It sounded more like a haberdasher talking shop than an attorney pursuing his profession. Also, I tried my client's hat on my own head. It was too large for me. I wear a "size 7."

The prospect grew even brighter. But I re-

membered that sometimes the sizes of caps are marked wrong or the cap-maker has an off day and makes them too large or small, and I wanted to be sure that the "size 6" gray cap in evidence was really a "size 6." I had my opportunity when Alice Hamilton took the stand. I watched every second of her examination by Assistant State's Attorney Edward S. Day, the prosecutor. Let me say right now, that Prosecutor Day was as quick as anyone else to see the blunder of the police. Also, he was astute enough not to press the matter of the gray cap after his discovery. I don't know whether he knew at first that I appreciated the new value the cap had taken as evidence. He discovered that I had as soon as I took up the cross-examination of Alice Hamilton. I picked up the gray cap and the proceedings went on much as follows:

"Is this the cap worn by Mann?" I asked her.

"Yes, sir," responded the witness.

"Are you sure?" I demanded.

"Oh, I couldn't be mistaken," she replied.

"Are you as sure of that as you are of the rest of your testimony?" I asked.

"Yes," she made the reply before Day could interpose his swift objection.

"Now I'd like you to tell me how you think he wore the hat," I went on. "Was it like this?" I perched the cap far back on my head. She shook her head. I shoved it over one ear. She made the negative sign again. I jerked it to the other ear — once more her head shook. Then I pulled the cap over my eyes. "That's just the way he wore it," said Alice Hamilton. But I hardly heard what she said. I had satisfied myself about a matter of much greater importance. I had discovered that the cap was at least a size too small for my head. I was sure of the acquittal.

Others have told me since that they considered other points in the trial as the winning moves. One of those who followed it closely

said to me a little while ago that I made a clever stroke when I told a newspaper man in the presence of Prosecutor Day, that I expected to speak all day and then actually spoke only four hours.

He would not believe that my statement had been sincere and that I had spoken briefly because I suddenly read in the faces of the jurymen that they were with me. I was full of words when I stopped speaking. If there was any "cleverness" in stopping abruptly it was in quitting when I had said enough—a simple trick but one rarely done. But say what they will, the prime point of the Lumann Mann trial came when the defendant was on the witness stand and I had turned his testimony to the subject of the gray cap. I took the hat from the table and held it up.

"Is this your cap?" I asked him.

"Why, no sir," said Mann.

"Stand up before this jury," I said, "and try the cap on to see if it fits you."

Mann took the cap and put it on his head. Immediately the whole courtroom broke into laughter. The jury followed the example, the bailiff had to rap for order.

That cap stood on top of Mann's head like the derby Chaplin wears in the movies. It looked like one of these trick caps they make the freshmen wear in college.

The police had made their fatal blunder in not trying the cap on Mann's head before producing it as evidence. Mann wore a "size 7½" cap.

The jury laughed as it went out to deliberate. It took its members only fifteen minutes to return with a verdict of "not guilty."

The Million-Dollar Baby

IT MAY be that all the world loves a lover. I have no especial quarrel with the man who first wrote that as a fact. I will merely state that it is rather difficult of belief after observing some lovers — say those who appear as letter-writers in breach-of-promise cases and as co-respondents in divorce suits.

But if all the world does love a lover, then all the world loves a baby more. Which is one of the reasons why the entire country was warmly and humanly interested when "The Million Dollar Baby" was taken from her father's home in Philadelphia, brought through Chicago and

finally placed in her mother's arms in Los Angeles.

Chicago was particularly interested because it was in Chicago that the fight for the possession of "The Million Dollar Baby" reached its hottest climax and was won—for the mother.

It was my happy fortune to assist in the return of "The Million Dollar Baby" to her mother. There were many versions invented of my participation in the fight. You may be sure my eager critics took advantage of the occasion for some of their choicest imaginings.

This is the first time the true story of the baby's secret departure from Chicago, the crisis of the mother's victory, has been told. The critical move was made through the information given me by a detective nominally employed by the other side—an illustration of the necessity and convenience of having an agent in the enemy's camp in time of war.

"The Million Dollar Baby," if you recall,

was Virginia. Virginia was three years old. Her father was an engineer. He and the baby's mother had separated. She was ill in California and calling out for her baby. Her mother, the baby's grandmother, took the initiative.

Mrs. Harriet L. Janney, that was the grandmother's name, took the baby from the home in Philadelphia and started for Chicago on the overland trip to Los Angeles. The father acted quickly. He telegraphed to Chicago. Policemen boarded the California Limited and held that Santa Fe flyer for ten minutes until they removed Mrs. Janney and the baby Virginia. They took them to the sour atmosphere of the old Harrison street police station annex.

It was at this point that I became interested. I went before Judge Charles M. Walker in the Criminal Court and played the legal right bower — the plea for a writ of habeas corpus — maintaining that the child and grandmother were being illegally detained.

Meanwhile, the father had not been idle.

He had started from Philadelphia, accompanied by his attorney and a detective with a warrant. Also, he had retained counsel in Chicago by telegraph. As Judge Walker granted my writ, Judge Ryan in the Municipal Court issued a fugitive warrant for Mrs. Janney.

Ford's lawyer and I raced for the cell. Luck was with me. When we appeared in court the father caused a sensation by trying to seize Virginia and carry her off. He was restrained. "If you beat me in this court," he shouted at me, "I'll have a warrant issued for them in every state from here to California."

It so happened that we did beat him. Judge Walker suggested that an amicable adjustment of the case be made. The judge, one of the squarest type, had become interested in the innocent baby face so out of place in the usual grim surroundings of his court.

To this we all agreed. We promised to gather for a conference at 4 o'clock that afternoon in my office. The father, grandmother,

the baby and the lawyers were to be there. Until that time we pledged ourselves to take no action. As I left the courtroom I noticed that we were followed by private detectives, no great feat of observation. I took the grandmother and Virginia to the Hotel Sherman, where I engaged a suite for them.

The private detectives hired by the father swarmed on the place. At one time there were no less than ten of them in the lobby. I sent two husky guards to make sure that the baby was not kidnapped. One of my associates took a room on the second floor, to be on hand in case of emergency. I went back to my office to clear up some matters of business and await the hour of appointment for our "amicable adjustment," as agreed before Judge Walker.

At 2 o'clock my switchboard operator informed me that a man wished to speak to me over the telephone. He had given a name which I recognized at once as that used by a really skillful operative whose talent as a de-

tective I frequently employ. I spoke to him. "I'm working for this fellow from Philadelphia," said this man. "I just wanted to tip you off that they are going to get a writ of habeas corpus and take that baby away from her grandmother. Better step lively, too, because they are working on it now."

"But Ford's lawyer is a high-class man," I said, "and he gave me his word and told Judge Walker he wouldn't take any action until we met at four this afternoon." "Figure it out to suit yourself," replied the operative. "But if it takes you very long to figure, you'll be late. They're going over to the County building now for the writ."

This operative had never failed me. His judgment and his intelligence were of the highest order in his calling. Ten minutes later I telephoned the grandmother. "I'm coming right over," I told her. "I'll explain when I get there. But I want you to be dressed and have the baby dressed for a long journey."

Then I telephoned to a taxicab driver who was an old friend of mine. I told him to go through LaSalle Street to the alleyway near the detective bureau — an alley that runs back of the Hotel Sherman.

Then I started for the hotel. Two private detectives followed me. I made no secret of my movements. I passed through the detective guard like an officer inspecting his company. I entered the elevator and my detective shadows had to part company with me. The hotel detective did not allow the others above the lobby floor.

The grandmother and baby were dressed and waiting when I reached their rooms. I took Virginia in my arms and led the way to the second floor, on which were located the rooms of my associate. I placed the grandmother in his charge, with instructions to take her out through the servants' entrance to the taxicab in the alley.

I climbed out on the fire escape through the

window of my associate's room, still carrying the baby. I clambered down to the first floor and made ready to hang from there and make the short drop to the street level with the little one.

"Are you frightened, Virginia?" I asked the baby as I lowered myself through the grating. "No, sir; you're taking me to my mamma," the baby lisped, and put her arms around my neck. After that vote of confidence I was ready to drop off the roof of the Masonic Temple, if necessary.

Within a minute I was in the taxicab with the baby. The grandmother and my associate had reached there already. I turned the baby over to them and gave them some swift instructions. My friend, the taxicab driver, grinned when I told him to be careful about getting himself stopped, and they were off.

I went back into the hotel by the servants' entrance and permitted myself the pleasure of going to one of the upper floors and returning

by the elevator to the lobby and another inspection of the private detectives assigned to see that I did not spirit the baby away. Two of them followed me back to my office, where I arrived in time for the appointment at 4 o'clock.

Neither Ford nor his counsel appeared. The detective who had given me warning had acted on sound observation. The failure of Ford and his counsel to appear was not all that corroborated his judgment. Early the next morning I learned that Ford's counsel had secured the writ of habeas corpus from a judge.

By that time "The Million Dollar Baby" with her grandmother was on a train on her way back to Los Angeles and my associate was asleep in a taxicab which was zigzagging its tired way back from South Bend, Ind.

Easy Weepers

OF ALL the weeping witnesses I have placed on the witness stand — and I confess they have been many — none stands out more clearly in my mind than William A. Miller. William A. Miller was what you might call an easy weeper.

He was more than that, as it developed. It was through his case that about 90 men were released from the penitentiary and the Municipal Court deprived by the Supreme Court of its power to try criminal cases, where imprisonment would be in the penitentiary.

When I first saw Miller — but before that, a few words of explanation regarding the difficult art of inducing tears. Moving picture directors are devoting long columns of publicity to

their theories and practices in making their emotional screen stars "emote" on schedule. Chief of their difficulties, it seems, is to "register" tears. They tell of employing scores of means to this end. One speaks of his unfailing use of the violin and the Serenade Levantine with a certain brunette beauty. Another relies on a piano and Hearts and Flowers to move a blonde cutie. Still another finds a tenor piping mother ballads effective and a fourth trusts dramatic recitations behind the camera, and so down a long list.

I often feel that I might aid the celluloid Belascos in their search for the emotional stops on the organ. Long before the movies showed anything more thrilling than galloping fire horses and the swift approach of the Cannonball Express I was studying my stars — my star witnesses — to produce dramatic effects before juries.

I was not, of course, permitted the use of so much as a mouth organ or a bird-call. My only

instruments were my subjects, the witnesses. I was forced to delve into the recesses of their souls to seek the responsive chord and to tap the spring of tears. It is a highly specialized course in the most interesting study of all — the study of human nature.

Those who casually declare that each outburst on the part of some witness is the result of careful rehearsal do not realize how impossible it is to rehearse a person on trial — perhaps for his life — and to inject artificial emotion into a soul already crammed with real emotion. No; my study is something better than that.

Let me get back to William A. Miller, the "easy weeper," and perhaps you will understand better at what I am driving. When I first saw Miller I smiled to myself. Here, I thought, will be one star witness whose tears would respond as quickly as the water when the tap is turned for the morning tub.

Miller came into my office weeping. He con-

tinued to do so throughout our first interview. He continued to do so, in fact, throughout most of the time we were preparing for his trial — he wept in my office, on my shoulder, before breakfast, at my home — everywhere and on every occasion.

Miller, as he explained between tears, had been an employe of the John M. Smyth & Co., furniture house. He had stolen rugs, he sobbed, valued at $2,000. He wept as he told me how he threw them out of a window to an accomplice — who, incidentally, was named by the police, with their usual aptness at such titles, "Raffles." It was Miller's first offense, he explained as he cried, and it would be a disgrace to his family. He was charged with grand larceny.

With that gift of weeping and his dapper appearance I could foresee the effect on the jury. Miller was a gentle-mannered, soft-voiced chap. But greatly to my amazement and embarrassment, Miller reversed his form when he went on

the stand to testify. He became stoical as an Indian. There was not a tear. Every effort I made to break down this strange air of control failed.

It was fortunate that a material witness for the state could not be found. The jury disagreed. Miller wept as the announcement was made — unavailing, tardy tears!

Miller went to a cell to await the second trial and I went to my office to study the "easy weeper." But when the time for the second trial arrived I had not solved the problem of inspiring those tears at the one time they might help him.

We did not have enough money to hire a stenographer for the second trial. I told Miller about this one day when I visited him. The day before the second trial opened a beautiful blonde young woman came to my office. "I am Natalia Elbrecht," she explained, "and I am engaged to marry Mr. Miller."

And she, too, began to weep. I had never

even heard of her. Miller had not mentioned a sweetheart. When she had partly controlled her sobs she explained why she had come to the office. "I'm a stenographer," she said. "I visited William and he told me that you needed a stenographer to make notes in the trial. He does not know I came here. He doesn't want me mixed up in the case, he says. But if you need me, I'll do the best I can."

She began to weep again. Under that rain of tears an inspiration sprouted. "All right, you can help Miller," I told her. "You buy a heavy black veil and borrow a coat from some girl friend. Meet me outside of the Judge's courtroom tomorrow morning and bring your notebook and pencil."

Next morning she was waiting, dressed as I had ordered. "Take your place at the stenographers' table," I said, "and keep your veil down and your coat on. Keep right on making notes until you hear me say the words, 'to

whom.' Then lift up your veil and look at the witness on the stand."

She went to the stenographers' table, which is right under the witness stand. Miller did not notice her because of the heavy veil and the strange coat. The trial went on. The state had a strong case. For one thing, Miller had confessed. The prosecutor joshed me a good deal. He looked upon me as pretty much of a "kid," which I was.

Finally Miller went on the stand in his own behalf and I began to question him. He was as emotionless as at the first trial. He seemed entirely unmoved. I plunged into my dramatic moment.

"Are you married?" I asked him.

"No, sir," said Miller.

"Are you engaged?" I went on.

"I am," he replied.

"To whom?" I demanded.

It was the signal. At the table at Miller's feet the stenographer lifted her heavy black veil

and tilted her beautiful blonde head toward the witness.

Miller started. He grew white and then red. Two tears dropped down his cheeks, then two more and then a flood of them. He sobbed.

"To this young lady here," he replied, brokenly. Then Miss Elbrecht began to weep, too. It was a duet of tears that soon threatened to become a chorus as the jurymen blinked their eyes or stealthily wiped away a suspicious bit of moisture. Miss Elbrecht was very beautiful.

Despite the emotional outburst, the jurors could not get around Miller's confession; but they had the temerity to place the value of the $2,000 rugs at $14, which made the case petit larceny and imposed a comparatively short term of imprisonment. Judge Pinckney called it a "gross miscarriage of justice" and I—well, I blush to admit that I made a mistake.

I had been studying older and abler attorneys in courts. I always heard them ask for a new trial. I stepped forward.

"Motion for a new trial, your honor," I said.

"Granted!" snapped Judge Pinckney.

"You poor fish," said the prosecutor—addressing me, of course. "Don't you know when you've won a case?"

Then I determined to go the limit. Miller was convicted when his case was transferred to the Municipal Court. I went to the Supreme Court. The Municipal Court decision was reversed by the Supreme bench and on that ruling the power of the Municipal Court to try criminal cases and sentence to the penitentiary was removed. Miller himself, through the provision of the law governing the status of men waiting trial through four terms of court, was released.

Not least of all, by any means, the 90 men or so convicted by the Municipal Court, were released by the proper flow of tears and my error.

Since then I have been wary of "easy weepers." There is a time and place for all things —which includes the time one is on trial and the place one finds one's self before a jury.

The Hidden Ear

PLACING a dictagraph and "listening in" on secret conferences regarding a most important case I was defending was ridiculously simple.

I remarked as much in beginning this history. Approaching the subject in detail, I am even more convinced that the full explanation may appear dull, and I enter into the discussion of it more for the effect it produced in the courtroom each day.

The man who invented the dictagraph was a sort of Christopher Columbus in the field of criminal law practice. Certainly old Henry W. Dictagraph, when he perfected his "hidden ear," opened up a new world of opportunities for the prosecution and defense in getting evidence, testimony and information.

But the invention is one that tempts abuse as well as use. From what my dictagraph operators turn over to me I cull only such points as have a direct bearing on the case in hand. Other revelations — and they would be startling — are destroyed, or filed away. I prefer the dictagraph as I use it in my office, to communicate with my associates and with the telephone switchboard.

Sometimes, however, the employment of the dictagraph as a "hidden ear" becomes necessary and then —

Which brings us to the occasion when one was planted. The case on trial was one of many angles. It was certain as it progressed that the state's attorney was holding secret conferences in his office. Witnesses testified in such a manner that we could not reach them in cross-examination.

I told my dictagraph operatives. The wire from the transmitter ran to a window opening on a fire escape. Thence it was strung to a

room on the fourth floor of the Criminal building just outside of the custodian's inner office. The outer room of the custodian's office is used by newspaper men. There is a long table there, chairs and telephones. My operatives "listening in" wore headpieces such as the newspaper reporters wear when dictating stories to their offices over the telephone. Those who saw the operatives at work thought they were newspaper men. Our trial happened to be the only big one in the building at the time and the newspaper men were using another room which they occupy on the second floor, the same on which the state's attorney's office is located.

Simple? Simple isn't the word for it.

After each conference I was able to go into court with a typewritten copy of what the operatives had heard and had taken down in shorthand. It gave me the power of asking witnesses questions of which I could not possibly

have had knowledge unless I had had an agent at the conference.

It was because of this that I was accused of bribing one of the attaches of the state's attorney's staff — an accusation, as I have mentioned, as unjust to them as it was to me. The distinguished counsel for the state began to eye each other. They dismissed one of their own witnesses and proceeded most cautiously with others.

One of them became so furious that he permitted himself to arise and state in open court:

"There is a traitor in our camp."

It was all very amusing to the defense — and very important.

Not long after this the state attempted to employ the dictagraph to trap counsel for the defense in an embarrassing situation. It happened thus:

In the heat of a hard-fought case I was telephoned by a man who claimed to have testimony of vital importance. I asked him to come

to my office. He said he would speak to me only at his home. I was somewhat suspicious, but the trial in which I was engaged at the time was the sort in which I could not afford to overlook the slightest chance.

I asked him to call me again. I sent one of my operatives to look him up at the business address he had given. The operative reported that apparently he was a well-to-do business man. The home he went to after business was a solid-looking apartment in a good residence section. But the operative also reported that he had seen a detective from the state's attorney's office call at the man's place of business.

I couldn't overlook a chance, but I didn't take any, either. I was able to have a woman operative, disguised as a maid, employed in the mysterious one's apartment. In the house was the man's wife and another man known as his brother-in-law. The "maid" reported several mysterious callers. At last I determined to visit the apartment and clear up the mystery as

quickly as I could. Before going there I took a few precautions.

I gave the "maid" a dictagraph and instructed her to place it in the living room. The wire from the instrument ran to the floor above and a room rented there by a dictagraph operator named Dennison.

I made the appointment and went to the house. We talked in the living room. Ten minutes had not passed before I realized that he had no real information and that he had called me there that my visit might be twisted into a semblance of suspicious action during the trial. My estimate of him and his business was confirmed when he brought in a woman he introduced as his wife and the man supposed to be his brother-in-law. Of course, that was so they would be able to identify me later and say they were present while we talked.

When I had met them I excused myself for a minute. I went upstairs and I got my operatives. I came down with them and introduced

them. "These are two dictagraph operatives," I said, "and they have been listening in to what we've been talking about. If you want proof, allow me."

And I stepped over to a framed engraving of George Washington and took from behind it the "hidden ear"—the dictagraph. I held it up. The mysterious man was dumbfounded; so were his wife and brother-in-law.

Then Dennison, the dictagraph operative, cut in.

"I thought I knew this guy," he exclaimed. "Now I remember, I worked with him down in Ohio. He's with an agency down there."

At the same moment the "maid" entered. She had known her work was over and had changed into her street clothes.

"And this woman," I told the imported private detective, "is also an operative in my employ. We're going to leave you now with a record of all you and I've talked about and knowledge of something more—something

that sounds almost like criminal conspiracy. Go to the state's attorney and tell him if you want to."

We four started for the door. Just before we reached the exit the mysterious detective recovered somewhat.

"I thought right from the start," he said, "that she wasn't much of a housemaid!"

Words and Music By—

MY FAVORITE poet is the author of this series of narratives; and were I asked what I consider to be his supreme effort at rhythm I would unhesitatingly recite the following lines:

"Nick knew Mike and Mike knew Nick,
And they both knew each other—"

Sounds rather silly, doesn't it? Or shockingly immodest? Or both? Maybe so—but to me that simple jingle is sweet music and full of poetic wealth—and poetic justice.

You may understand my fondness for the lines when I explain that they played a most vitally important part in the victory for the defense in the trial of Chief of Police Healey, Detective-Sergeant Stephen Barry and William

R. Skidmore. In the record libretto of that case I believe I may in all modesty write, "words and music by Charles E. Erbstein."

Of course, there were other important points made in that spectacular trial of which the public is not aware. There was the incident of the dollar watch, the episode of the phonograph, the inventor's weakness, the clash with the judge and the tip to the messenger boy. The prosecutor himself declared the messenger boy incident the chief point made by the defense. But, with these things we shall deal later, if you have patience. To me the prime thing is that two-line gem. And this is the reason for that:

The state, which charged Chief Healey, "Steve" Barry and "Bill" Skidmore with being in league with vice and crime and protecting gambling, had built a remarkable case. It brought into court witnesses from the underworld, vice investigators, respectable persons, "squealers," public officials, dictagraph rec-

ords — well, as the little boy says, "'n' everything."

Our contention and my earnest belief was that the case had been "framed up;" that is, that certain men had conspired to suborn perjury and manufacture evidence that they might destroy the chief and through him the man responsible for his advancement; that they might incidentally drag down and besmirch others in the desperate scheme was a matter of no moment to the conspirators.

The state piled up its evidence, which took the proportions of an Egyptian pyramid. Each new batch of testimony was as if a new block of stone had been swung into position to crush the defense.

Against this monumental testimony we bent all our strength — Attorneys John J. Healy, Clarence Darrow and I, associated with them in the defense. We struggled to lift the smothering mass of circumstance or to find a lever hold

that would enable us to pry apart the massive blocks and let a ray of true light filter in.

My chief effort was to bring before the jury the connection and intimate acquaintance of "Mike de Pike" Heitler, notorious levee character, with a former police inspector and captain, now working, I believe, with a private detective agency.

It looked hopeless. At every turn I was blocked by the cold letter of the law. Every move was choked by the objections of the state and the overruling of the judge. Each time I crept close to the edge of this revelation, I was hurled violently back by legal procedure.

The Captain, himself, on the witness stand smiled under his mustache, as he seemed to struggle to remember even vaguely ever having heard of Heitler's existence. Heitler could not be called because about the time the jury was being selected, "Mike de Pike," convicted of violating the Mann act, was conveniently tucked away in the Leavenworth Federal Peni-

tentiary and the state did not see fit to summon him as a witness.

I tried every means I could think of to find a way to show the jury Heitler's association with the witness, of which, of course, I was convinced. I was becoming despondent over my failure. Then came opportunity. I did not hear it knock at the door at first; in fact, opportunity almost had to sandbag me before I grasped the great chance.

One of the state's private detectives was on the stand testifying to having "listened in" on alleged conversations overheard between some of the defendants. He had taken them down in longhand over the "tapped" wire, he said. He identified records of these reports. I was cross-examining him perfunctorily — my mind always on "Mike de Pike" and the Captain.

"You say you can take ordinary conversation in longhand?" I asked him, and the question seemed vague and worthless; but some-

thing in his affirmative reply — some hesitation and surprise — caused me to go on.

I asked Judge Sabath if I might test the witness' skill as a longhand stenographer. Pencil and paper were provided.

"Take this —" I began. And then the light came. I had my inspiration. Many of my critics pretend to see in this move the carrying out of a deep-laid plot. But not until that instant did I grasp the opportunity nor was it until some time had elapsed that I realized its vast importance.

"Take this letter," I said, and dictated:

"Leavenworth Prison.

"Dear 'Nick': I am down here in Leavenworth pen serving a stretch for violating the Mann act and I am writing you, old pal, because —"

That was as far as I got. Prosecutor Frank Johnston, a fine fellow, was on his feet objecting as loudly as Frank's pleasant voice would permit. The courtroom was in a giggling up-

roar. The entire jury was laughing. I even thought I detected a twinkle in the eye of Judge Sabath. I argued, of course, that it was only a fair trial of the detective's skill. The prosecutor was upheld, as I had expected.

Judge Sabath told me to try again and dictate something else. He was watching me. Prosecutor Johnston was alert. In the back of my head the gem of jingles was forming. I shot it over.

"Take this," I told the witness, and then:

"Nick knew Mike and Mike knew Nick
And they both knew each other—"

Prosecutor Johnston shouted his objection. He was upheld again; but I had won my point. I had "sold" my "poem."

"Nick knew Mike and Mike knew Nick!"

It couldn't help cropping up almost daily during the long weeks of the trial that followed. It became the motif in all subsequent proceedings. The men operating the Criminal Court elevators chanted it as they jerked up and down

the shafts. The courtroom crowds marched out to the cadence of "Nick knew Mike and Mike knew Nick." It became as haunting as that bit of Mark Twain's, "Punch, brother, punch with care; punch in the presence of the passengaire." It became the pulse beat of the trial. It throbbed like the beating of an Indian tom-tom and stole into the sense like the monotonous pounding of wheels on a long railroad journey.

Perhaps it was not the sort of tactics that more ponderous counsel might have pursued. But it was mighty effective.

It could not help reaching the jury. I saw the jurymen smile each time it recurred. Not until after the trial, though, did I realize how firmly it had gripped them. Then a bailiff came to me.

"That 'Mike knew Nick' thing certainly got 'em, Charlie," he said. "They kept at it till it got on my nerves. They used to keep time to it when they marched to their meals. They pre-

tended when they were locked up that it was a lodge-meeting and that 'Nick knew Mike' was the password. They sang it and they did a war dance to it every night. I think it won the case."

Blessed little jingle! Song of songs! Had I known it was that good I would have risked judicial censure by serenading them with a brass band that they might more fully enjoy the "words and music by Charles E. Erbstein."

Smiling Bill

THERE was a great stir in the crowded courtroom where the Healey-Barry-Skidmore trial was being heard. Representatives of the state's attorney dashed about excitedly. The judge, somewhat amazed, permitted the jury to be excused and acquiesced in the request that he retire to chambers to hear urgent matters.

Naturally, the defense began to get interested. Clerks and bailiffs looked on astonished. Newspaper reporters bustled around, scenting another sensation in the spectacular trial. There were whispers that the jury had been tampered with. It was hinted that some one had boldly sought to influence the entire jury in one startling move.

The reason for that vivid half hour of excitement never has been made public. I caught my first hint of it after the state had demanded that an examination be made of the phonograph records which the judge had kindly allowed sent the jury for its entertainment during the long tedium of waiting between court sessions.

I saw Bill Skidmore smiling. He beckoned to me.

"Gee, these assistant state's attorneys certainly get excited easily," remarked Bill.

"Easily excited, eh?" I responded. "Why shouldn't they get excited when they hear somebody's been fooling with the jury?"

"And all on account of what I told Berger," mused Bill, as if to himself. Henry Berger was one of the prosecutor's assistants.

"Did you start this?" I demanded of Bill.

"I didn't know they'd take my little joke so seriously," replied Bill. "All I did was tell Berger that a friend of mine worked at Lyon &

Healy's and when this order for the jury's phonograph records came, he made it up. I said that maybe my friend had done wrong but he didn't mean any harm and was only trying to help me out, being an old pal. I told Berger he had slipped in an extra record and that maybe the state ought to know the name of the record."

"What did you tell him the name of the record was?" I asked.

"I said it was 'Please Don't Send My Darling Boy Away,'" replied my client.

That was Bill all over — the gamest client that ever sat by my side in court and faced the penitentiary. In the midst of such serious surroundings Bill's sense of humor did not fail him. He always turned the same smiling face to the jury — the smile of the seasoned gambler which Bill admitted being.

All during that long ordeal only two things seemed to touch him; to get behind that famil-

iar smile. One made him turn white and fighting mad — the other made him — weep!

The two things were closely related and together — well, they make a story that may interest you.

When Bill was put on trial with the others, word came from the state's attorney's office — unofficially, of course — that the prosecutor regretted very much that Bill had been drawn into the case. It was intimated that the state would "make it easy" for Bill. By way of "making it easy" the prosecution dragged into the case the outrageous intimation that Bill had accepted money from a woman who conducted a house of ill repute. Now Bill had admitted being a gambler — he cheerfully told of having kept a saloon at one time in which a handbook was operated. He revealed his start as a boy selling programs at the race track. He even confessed having been a politician. But this infamous accusation was too much. That night

going to my office from court Bill was serious for the first time.

"Charley, they make this frameup look good to that jury," said Bill. "They may send me to the penitentiary — I'll take all that if I get it, but, by God, you've got to make them swallow this lie that I ever took that kind of money!"

Bill repeated that again and again as the days went on. And Bill meant it. I worked hard to wipe out the slur. By the best of my efforts I succeeded only in half effacing it. I decided that I would be able to refute it altogether only when Bill, himself, took the witness stand. Which advanced my problem to one of giving the jury an impression of the deep emotions that lay behind that careless, smiling exterior of Bill's. But how to get Bill to display emotion? How to "register" something in the place of that confident smile? How to shake that confident poise? How to reveal the heart through the features schooled under all cir-

cumstances to that admirable, smiling control?

It was a problem! I began to study Bill as I have studied so many clients with whom I wish to produce "effects" on the stand. The solution of my problem came from an unexpected source.

Every night when we walked back to my office together Bill used the telephone at the first opportunity. He spoke to a woman. He told her how the day had gone. He used most endearing terms. I knew who that woman was and I knew that I was prepared to make Bill "register" whatever I wished in front of the jury.

Not until the very close of Bill's testimony did I use my weapon. All during a long day Bill had told his story in that suave way of his —a clean narrative, punctuated now and then with the famous smile. Just before the time for adjournment I paused for a dramatic moment or two and then said:

"I want to ask you about the charge that

you took money from a woman who ran a house of ill fame."

Bill turned white. He braced his smile, but it looked a bit twisted. He set himself for my next question. I don't know what he expected, but what I asked was:

"Have you a mother, Bill?"

Bill's smile softened and his lips trembled. He could barely speak as he faltered:

"Yes, sir."

"Is she living?" I asked.

"Yes, sir," replied Bill in a low, broken voice. His head dropped for the first time. The jury was watching him, sympathy written all over its attitude. The courtroom was breathless.

"Bill Skidmore," I said, measuring my words impressively, "did you take money from this woman as they say you did?"

Bill's head still hung. The silence of the courtroom was intense. You could hear the ticking of the courtroom clock — and the ticks

seemed to boom like cannon. Then Bill's head was lifted. Tears were streaming down his flushed cheeks. There was just a hint of the old brave smile. In his eyes an inspiring light burned. But his voice was steady and clear.

"No sir," he said firmly, "I did not."

And Bill, with his eyes still wet, left the witness stand as court adjourned and the jury left the room — to think over during the night how they had seen Bill Skidmore bare his heart at the thought of his mother's sorrow if the jurors found her son guilty of such an accusation.

Thus a foul charge was erased in the tears inspired by the love of a mother.

I almost forgot to mention — or is it necessary to add? — that the woman to whom Bill telephoned from my office every night was his mother.

The Hippodrome

SOMEHOW the Healey-Barry-Skidmore trial is a difficult subject to leave. Looking back on the three long months it consumed, it strikes the mind as some thrilling three-ring circus of legal procedure. Confusedly there comes the impression of half a dozen bands braying, acrobats hurtling through the air, tumblers contorting on the ground, elephants about to step on the chest of the trainer, trained seals balancing fire balls, clowns — a whole troupe of them — jugglers, a grand pageant and a hippodrome race all at one time.

Incidents crowded so fast on each other that many escaped the eye of the shrewdest observer. They keep jumping back into the mind

now in strange, detached groups. Some of them were amusing. Some of them were of the utmost importance. If you will permit I will record a few of them briefly before we pass on to other subjects.

There was the episode of the dollar watch. It came up quite casually enough and was so inconspicuous throughout that I doubt if the prosecution appreciates after these years how that dollar watch paid a thousand per cent on the investment. It was my watch. It was by accident — an accident that broke my regular watch — that I had it in my pocket. It came into the case first when the state began a monotonous reading of "vice reports" — the reports of "X-57" and "Z-72" of the morals squad — to show that disorderly resorts might still be operating in Chicago. They were tedious and tiresome and seemingly endless.

During one day of these readings I was leaning back in my chair, half asleep. Suddenly I observed that the jury was watching me and

that its interest had been distracted from the droning voice of the state's reader. Two or three of them were smiling. Then I became aware of the fact that I had unconsciously taken the watch from my pocket and was winding it mechanically. To those who have heard the winding of a dollar watch I need say little more.

The harsh, metallic "cli-i-ick" was startling in the bored monotone of the courtroom. The trifling incident had diverted the jurors. They were often diverted thereafter. I found it served my purpose better than offering to assist the state in reading the reports myself as a relief shift. Every time I wound the watch the jury smiled. At the end of the three months that watch, guaranteed for a year, was a chronometrical wreck. But I never exchanged it for a new one. I still have it somewhere among my collection of souvenirs.

Some folks are still wondering what crushing question I was going to ask Tom Costello, the state's star witness, at the close of his testi-

mony. I imagine even Costello wonders. Those familiar with the trial know only that I shot an impossible, fearful question at him; that it was objected to; that the state was supported and that I refused to go on with my cross-examination. As a matter of fact, if the state had not objected, I would have been confounded, because I didn't have a question left in my system.

I think Costello was on the stand three days. I had exhausted every line of inquiry. I had dribbled down to a point where I desperately considered asking him to name the presidents or to give the dates of important battles in the Revolutionary War. But I wanted a dramatic end to the cross-examination — one that would give the jury something to think about. Finally, at random I composed some outrageous question and shot it at Costello. I forget what the question was. Prosecutor Johnston objected. The judge upheld him. I turned

fiercely on the judge. He seemed quite astonished, as indeed he had every right to be.

"All right!" I said, "if I am to be blocked at every turn and not permitted to examine this witness properly — then I refuse to go on with the examination. I'm through!"

I had a mighty hard time to choke back my inward smile and stalk indignantly back to my chair. Long after the trial one of the assistant state's attorneys met me and asked me what I was going to ask Costello before I had the argument with Judge Sabath. I told him the story.

"You son — of — a — gun!" he exclaimed.

Another interesting incident was the dissection of a telephone condenser in court, accompanied by many expert questions by myself. This was occasioned by the mass of "tapped wire" testimony piled up by the state. The day before Thanksgiving one of their allegedly skilled manipulators of "tapped" wires was on the stand. I asked him many questions about that delicate part of the instrument. Mean-

while I kept my eye on the inventor who sat on the jury. I saw him shake his head unconsciously a couple of times at the replies of the "expert" on the stand. When court adjourned that evening, not to convene until after Thanksgiving, I had made up my mind to play directly to the inventor.

One of my friends in the Army Signal Corps, home on leave, was good enough to sacrifice part of his holiday to assist me. He came to my house in the country. The members of the house party that Thanksgiving day had every right to consider their host an ungracious one. They saw little of me.

But my lieutenant friend of the Signal Corps had no cause for complaint — on that score, at least. I was at his side all day. He was a telephone expert, and I had brought a condenser to the house. He drew plans of its operations. He explained the working thoroughly. We took it apart and reassembled it. We strung a wire from the garage to the chicken house, to

test it. Late that night, after the other guests had retired, the lieutenant held an examination. I "passed."

Next day I was all set for that "tapped wire expert." I confused him and embarrassed him. I made him acknowledge his ignorance. I even drew the working plan of a telephone circuit myself on a chart in the court. And all the time I could see the inventor nodding approval. Once I thought he was going to break into applause. I had won my point. My critics no doubt will call this "trickery" too. They will overlook the fact that I sacrificed my duty as Thanksgiving host to serve "cold turkey" to the jurors.

Prosecutor Johnston told me, after considerable reflection, that my best move during the trial was my treatment of the messenger boy witness. There was no skill in that move. That was a strict application of common sense and a knowledge of the type.

It would take a far more clever man than I

could ever pretend to be to cross verbal swords with one of these quick-witted, keen-eyed, street-trained lads of the city. So when the state had completed its direct examination and Clarence Darrow, with whom I was associated in the defense, had cross-examined the boy, I merely asked, as he was preparing to leave the stand: "Did the state give you carfare when they subpoenaed you?"

"No, sir," replied the boy.

"Well, I don't want you to walk," I said. "Here's a buck!" and I handed him a dollar bill. He smiled. So did the judge, the courtroom and — the jury. I didn't think it was such a keen strategic move, but the prosecution did and I bow to his judgment.

Once during the trial I accidentally treated the whole courtroom to quite a hilarious celebration. Those who attended the trial will remember the day of which I speak. The bailiffs smiled, the courtroom grinned and giggled and there was considerable difficulty in maintaining

order. So great did this difficulty become, in fact, that finally court adjourned early.

The secret of it was a bottle of cocktails that Joe, behind the bar in the Hotel Sherman, had prepared for a dinner party for me. I carried them to court and deposited them inside the water cooler in the room just outside Judge Sabath's court. It was shortly after this that the giggling began. I was as mystified as any one. Not until court adjourned did I find the secret. Then I went to get my bottle of cocktails. The bottle was there—in fragments! I learned that a janitor had dumped a fresh supply of ice into the cooler. The bottle had broken and the cocktails had mingled with the water, making one gigantic loving cup for the appreciative courtroom fans.

They were welcome, of course, but it won't be amiss to remind them that prohibition is upon us now.

The Cache

THE sergeant who guarded the door leading into the office of Chief of Police Schuettler was idly scribbling on a sheet of paper. It was three o'clock in the afternoon. From the standpoint of crime things were "quiet."

Soon the officer's attention was attracted by a shuffling of feet outside the anteroom door. Two men, caps in hand, timidly entered, glancing about nervously.

"Come in," ordered the sergeant. "What do you want?"

He spoke rather gruffly, because he had seen at a glance that the two men, one young and one old, were poorly dressed, and he imagined that they had wandered into the wrong office.

"Please, sir," began one of the men, the elder, "can we see the chief of police?"

The sergeant did not change his lounging position. He asked:

"Why do you want to see the chief?"

"We have business with him," returned the other man, twisting his cap in his hand.

"What kind of business?"

"We wish to surrender for a murder charged against us."

The man spoke in a quiet, unassuming way, and with a slightly foreign accent. Hardly had he said the word "murder" than the sergeant came to life. He scrutinized the pair closely, and then said quickly:

"Wait a minute."

These two roughly dressed men had risen in his estimation.

He went into the office of the chief, spoke a few words, and then was holding open the door to the two unexpected visitors.

Chief Schuettler arose to meet the men and his first question was:

"What murder is it?"

"The murder of Antonio Longo," the older man replied without hesitation.

"Antonio Longo," mused the chief and glanced at the sergeant, who seemed as puzzled as his superior officer.

"What other name did he go under?" the chief then asked.

"Antonio Longo; that was his only name," the other replied doggedly.

Chief Schuettler stood for a minute, apparently at loss what to do, and then he went to the telephone. He called the coroner.

"Hello, coroner," he said when the connection had been completed, "the two men wanted for the murder of Antonio Longo have surrendered."

"Who in the deuce was Antonio Longo and when was he murdered?" the coroner asked.

"Well, coroner, I'm in the same fix as you,"

the chief replied, "but anyway we have the men wanted for the killing. You better look up your records and let me know what you have on the case while I look for some information in my files."

Some time later after the men had been placed in a cell the chief and coroner were able to find among musty records the details of the killing of Antonio Longo. It was not strange that in seven years they could not instantly call to mind the fact that Longo, an Italian, had been killed by two unknown assailants. There have been many weird killings in "Little Italy" and especially at "Death's Corner," which have long ago faded from memory. At "Death's Corner" alone, during the past ten years, there have been at least fifty murders and practically none of these has been solved. Always the police have met with an impasse, a wall of silence, for murders are not discussed in "Little Italy."

And it was most unusual for anyone sought

for the crime to later surrender as did Philip Sanzori and his son, Joseph. But the love for a woman and the honor of the family name was the motive which prompted the two Sanzoris to come forth after seven years, when the crime was almost considered a closed chapter, to go before a jury and contest for their liberty.

I have pondered over this case many times, myself, and the unswerving affection of the younger Sanzori for the woman of his choice and his refusal to marry her until his name was cleared of blame have always impressed me as the quintessence of honor and love.

I can truthfully say that I was as surprised as the police when the two men walked into my office and made known their determination to surrender. I, myself, could not recall this particular murder, which was only one of many in which the guns of "Little Italy" had boomed forth their death-giving message.

I arranged that the two men be held on a coroner's mittimus. Then I took them before

Judge Pinckney and explained the circumstances to him. The judge fixed the bail of the father at $10,000 and that of the son at $5,000. They were at liberty soon and we began to plan the defense. It was then that I learned the strange facts.

Antonio Longo had been shot dead on the balmy summer night of July 25, 1900. He had walked to the rear door before going to bed and stood for a moment on the back porch. There were three flashes, which followed in quick succession, and three bullets ploughed into his body. He fell dead.

His wife was sleeping in a front room. She was awakened by the shots and the death cries of her husband and ran to the rear porch. She saw two figures fleeing in the darkness. She was unable to identify them. But some of the neighbors had seen the slayers at closer range.

"They were your father and brother," the neighbors told the hysterical wife.

The father and son, branded as the slayers

by the police, disappeared. At first the police searched diligently for them, and then the hunt began to lag. Other things of more importance occupied the department. The murder was gradually forgotten.

But it was not forgotten by Joseph Sanzori. Joseph was to wed the beautiful Italian girl. But as long as there was the stigma of a murder charge on his name he would not marry. He had no money to place up for a defense. So he explained the matter to his fiancee and she agreed to wait — and to help him.

Then began the battle of Joseph and his father, the battle for funds with which to clear their name. They fled to New York first, where, with their slim savings, they purchased a grind organ and a monkey.

As Joseph carried the little organ about the streets playing before crowds of children, everywhere causing joy and merriment to enter into the hearts of his listeners, his face was sad, and he rarely smiled even as the little monkey,

attired in faded red coat and jaunty peaked hat, grabbed at the pennies with many a ludicrous simian gesture.

The pennies and the nickels were taken home at night, where they were counted. And then — they were turned over to Joseph's fiancee! She carefully hoarded them. Gradually the money for the defense was saved. During seven long years it was accumulated, and during the latter part of this time the father and son collected money on the streets of Chicago. They had enlarged the scope of their business and the father was vending peanuts and fruit from a little push cart.

Then one day the father and son came to my office. They were not accompanied by Joseph's fiancee, the young woman who so nobly and patiently waited during the long years for her sweetheart to clear his name at the bar of justice before he led her to the altar.

Came the day of the trial.

The Sanzoris recounted a story of a bitter

feud which started years ago in Italy. A feud which was not considered closed even when Longo immigrated to the United States. Many times, the father told, Longo had expressed the fear that he would be killed as the result of this feud.

The jury had the facts. They deliberated a short time and then returned a verdict of not guilty.

I turned to watch the expression on the faces of the two men as the verdict was announced.

"You are a free man, Joseph," I told the son.

"Yes," said Joseph, smiling; "tonight I get married. It has been arranged. Had I been found guilty the marriage was off."

The next day Mrs. Joseph Sanzori came to my office with her husband, and taking a heavy bag placed it on the desk before me. It was filled with gold!

The Goldfish

THE experienced crook in Chicago is wise enough when the police lead him into the "goldfish room" to admit anything and everything. He knows that he can repudiate his confession later when it can be shown that it was obtained under duress.

Therefore he has no fear of being "shown the goldfish," as the expression goes. The piece of rubber hose, used as a mild persuader, and the systematic "third degree" whereby the prisoner is kept awake and in a continual state of agitation until he admits what the police want him to admit, have no terrors for him. He avoids them by a sweeping confession.

Nor does the experienced crook "fall for" the police subterfuge of "double cross." When

he has been arrested with a pal and the two separated, he merely chuckles at the policeman who comes to his cell and informs him he may as well "tell everything," because his "pal has squawked." He knows that at that moment they are also telling his pal that he has "kicked in" with a confession of guilt.

Sometimes strange and unexpected things grow out of these police methods. I recall one incident years ago in connection with the slugging of a well-known labor leader. The name doesn't matter, so I will not mention it. We shall call the man arrested as the suspect, Tom Jones.

The labor leader, to be known as Jack Smith, was not seriously injured, but the police showed unusual activity because of the numerous sluggings during that period.

When they arrested Jones they also took into custody his pretty sweetheart. She was held at an outlying station and he was taken to the bureau.

Jones was a handsome young fellow. He had been arrested before and knew the ways of the police. But when they tried to wring a confession from him that he had slugged the labor leader, who was known as his friend, he refused absolutely to commit himself.

For two days the police "grilled" him. In different shifts they managed to keep him awake by firing questions at him continuously. They would ask him to sit down and then pull the chair from under him. They would jerk him from his cell just about the time he had fallen on his cot through exhaustion and trot him up to the captain's office on some pretense.

Through it all he maintained his innocence. He showed an attitude of defiance.

I was engaged by his friends and started at once to get him out on a writ of habeas corpus. But meantime a certain detective conceived a scheme whereby he thought he would get a confession from Jones.

This particular detective, whom we will call

Sergeant Donovan, left the bureau and went to his home, as we learned afterward. He had his wife write out a letter and then hurried back to the bureau.

He found the prisoner in the midst of a group of detectives who were firing questions at him. He stepped dramatically forward and stuck the letter under Jones' nose.

"If you say you are innocent — how about this?" he asked with a note of triumph in his voice.

Jones took the letter and read:

"To the police:

"Now that I know Tom Jones has double crossed me — that he does not love me and has deceived me, I am going to tell everything. It was Jones who did the slugging.

(Signed) Mary Brown."

It was apparently a letter from Jones' sweetheart. He stood for a time with the letter in his hand, seemingly at loss what to do. Then he said:

"Give me time to think it over."

The police were encouraged. They led him back to his cell. The officer who had pulled this coup de main strutted about the station receiving the congratulations of his comrades.

"Did the girl actually write that?" they asked him.

He merely winked.

Meantime Jones sat in his cell, a forlorn, downcast man. The police gave him a short respite, as they seemed sure now of a confession.

But when he made no move to confess the police calculated that he was temporizing and if they did not act quickly he would be freed.

They started after him again.

"Well," he finally admitted, "I guess you have the goods on me. I slugged Jack Smith. What's the use denying it now, since my girl has gone back on me?"

The police were jubilant. But now that they had the admission of the slugging they began to seek the motive. This would possibly clear

up the cause of the internal strife in the labor ranks which had already resulted in a murder of one man and injuries to several others.

"Why did you do it?" asked the officer, who had given Jones the faked letter.

Jones seemed anxious to talk.

"You see Jack Smith and me were the best of friends," he began. "We used to go out on parties all the time together. I always took my girl and he was going with the wife of a copper. I think her name was Alice Donovan. She used to manage to get out in the afternoon and sometimes at night, when her husband was away.

"She was crazy about Smith and he used to treat her pretty badly. The other day he gave her a licking and I couldn't stand it any longer. I started in on him and thrashed him."

The officer who was standing before Jones changed color two or three times, gulped and discontinued the questioning.

Later when I got Jones out on the writ, he said:

"I ought to know the writing of that copper's wife. I have been receiving letters from her for a year. But he didn't know me. He's a wise bird thinking he could put anything like that over on me."

Cinderella Plus—

IT ALL began with a slender, shapely slipper. Those who sought the beautiful girl who had fled the dance found only that graceful bit of footgear for a clew. They began the search for the foot that would fit.

On the face of it, very like the fairy tale romance of Cinderella, but with considerable difference, because when this Cinderella fled she carried in her hand a revolver with two empty chambers. Behind her she left the body of the woman she had slain.

A pretty young woman running with one slipper off and one slipper on is likely to leave a wide trail behind her, especially when she runs down a lighted street, brandishing a re-

volver and screaming. So in a surprisingly brief time the police had found and arrested Miss ————, but let's forget her real name and call her Cinderella for the purpose of this narrative.

It was one of the first of the many times I was called upon to defend a woman accused of killing. As to what follows, I can only plead that I did not know the type then as well as I have come to know it since.

Some one called me up on the telephone, told me of the arrest and asked me to see the woman they were holding in the Desplaines Street Police Station. I rushed over there. As I went down the cells I heard a plaintive feminine voice singing:

"Maxwelton's braes are bonnie,
Where early fa's the de-ew—"

It was my client. "She's been singing that 'Annie Laurie' song and talking queer ever since they brought her in," said the lockup man. "She's either full of the old hop or just

plain nutty." I agreed with him as to the insanity after trying for an hour to get something out of my client besides the haunting tune of "Annie Laurie" or inconsequent chatter about going riding in the beautiful clouds.

I left my pitiful Cinderella and looked for some one to tell me something about her story. I got it from the man who had telephoned me. He was a West Side politician. He admitted that he was Cinderella's sweetheart and that she was jealous to the point of melancholy because he had gone out with another woman. She brooded over it and spoke of nothing else. She had gone to the dance hearing that her sweetheart was with the other woman. She confronted the other woman. The other woman laughed in her face. Then came the shots.

I was interested. It was the first time I had been confronted with these symptoms of insanity. I looked up the girl's record. She came of a good family, they told me, and had gone

to college. At one time she had taken a course in nursing at a hospital. That was all.

I went to the library and asked for books that would give me a start in the study of insanity. The distributing clerk, after a search through the records, recommended a good beginner's volume. The name of it, as I recall, was "McGriff's Melancholia and Thirty Ways of Detecting Insanity." Half of McGriff's handy book I read through before I visited my client at the county jail. Once more as I approached the "Bundle Cage" to speak with her I heard her voice:

"And 'twas there that Annie Laurie
Gave me her promise true—"

I was convinced already that my client was insane; but I was full of the teachings of McGriff. I wanted to be sure in all the thirty ways McGriff set forth that Miss Cinderella's mental condition was as hopeless as it seemed.

I remember some of the tests. One was to flash a lighted match suddenly before the pa-

tient's eyes; if she didn't blink, she failed the sanity test. Miss Cinderella didn't blink. Another was to prick her smartly with a needle; if she jumped or cried out she was sane. Miss Cinderella did not jump or cry out. There were other tests as drastic. I tried all thirty of them. Between tests she sang "Annie Laurie" some more. As a final, desperate move I tried Mr-Griff's test of suddenly shouting full in the ear of the patient. I ripped out a real cowboy yell. "Ee-yp!" I screamed and attendants came on the run, thinking my client, whom they pitied, had turned on me in her frenzy. When they came up she was saying dreamily:

"Why are you so good to me, prince? I will send around my solid silver coach drawn by eighteen moonbeams and we will fly to China and eat goldfish in the pretty igloo."

I was positive that my client was insane. As I left, worn out by my efforts at the McGriff method, her wistful, sad voice followed:

"And for bonnie Annie Laurie
I'd lay me dune and dee."

I called in expert alienists, in whom I was young enough at the time to have some slight faith. I was amazed to discover that apparently they knew no more than I had learned from McGriff's book. They used the same tests, with the variation of a lighted newspaper, instead of a match, suddenly pointing a revolver instead of yelling and using Latin words instead of English.

They testified at the trial, at which my client showed no symptoms of improvement, even insisting now and then on singing "Annie Laurie" in court. Even Judge John R. Newcomer, then prosecutor, seemed convinced of her insanity. The jury was, at any rate. It found her insane at the time of the shooting and insane at the time of the trial. She was committed to the insane asylum at Dunning.

My first experience with insane symptoms in a woman client was over. I remember musing

over the fairness of the verdict; how just it was that she be deprived of her liberty and yet how just that she be spared the disgrace of prison or the horror of the scaffold.

Three weeks later I was sitting in the little cubbyhole that served me then for an office, still pleased with the result of the trial of Miss Cinderella but wishing that insane patients provided something more tangible than experience and interest. The door was flung open. There, modishly gowned, trim and tailored, stood Miss Cinderella. I instinctively looked around, first for a means of defense and then for the attendant. "Surprised, Mr. Erbstein?" she smiled. "You needn't be. It isn't hard to get out of Dunning when one has friends in politics as I have."

"B-b-but h-h-how—" I stammered.

"Did I have you fooled, too?" she asked. "I thought that you were onto my little scheme from the start. Dear me, you're not half as

clever as they say you are. How much do I owe you?"

"You owe me nothing but an explanation," I said. "You not only fooled me but the insanity experts."

"They don't know any more about it than you," coolly responded my erstwhile client. "Let me ask you: when you began to study my sad case, what text book did you use?"

"I read 'McGriff's Melancholia and Thirty Ways of Detecting Insanity,'" I replied in injured dignity.

"I thought so," said Miss Cinderella. "Well, maybe you will understand how I met your tests when I tell you that shortly after I began to study nursing, one of the first books I read was 'McGriff's Melancholia and Thirty Ways of Detecting Insanity!'"

I was speechless.

"Well, ta-ta," said Miss Cinderella and left. I saw a man join her outside the door. I recognized the West Side politician. Then, as their

footsteps echoed down the corridor I heard a voice, hauntingly and tauntingly, singing:

"And for bonnie Annie Laurie
I'd lay me dune and dee."

The Fresh Scratch

IT WAS under somewhat peculiar circumstances — or, rather, under a somewhat peculiar circumstance that I was retained as counsel in one of the most interesting murder trials in all my experience.

The case was one of the long list of episodes in which a woman was accused of slaying her husband. I remember to this day how all the afternoon papers pulsed with their accounts of the latest shooting. I read them as I rode home that evening and I envied the lucky lawyer who would be called upon to defend the woman in such an interesting case.

If there ever was a case where the guilt of the woman seemed firmly established that was the

case. According to the newspaper versions the husband, who was an inventor, and wife had been known to quarrel frequently. He had accused her of infidelity.

After one of these quarrels his half frozen body was found on a rear porch of their home. There were two bullet wounds — one at his right temple; the other at his left breast. No weapon had been found.

It may seem strange that I envied the lawyer undertaking such a desperate defense. If so, recall that I was very young. Remember that I longed for a chance to measure my strength. Recollect, also, that at the time my practice was slim and big cases few and far between. I went to bed that night thinking of the wonderful opportunity the case provided for the right lawyer, allowing myself one guess as to who the proper counsel might be.

Shortly before two o'clock the next morning the telephone jangled me out of bed. I heard the name of the woman accused of the day's

spectacular slaying. A man was speaking. He represented the woman. She had asked that I be sent for. She was at a South Side police station. I did not even cast a regretful glance back at the warm and cozy bed. I dressed like a fireman and an hour later I was locked in a cell with the woman.

She struck me at once as of a type that is cold and calculating. Her first words were not reassuring.

"Are you Erbstein, the lawyer?" she demanded.

"Yes, ma'am," I replied.

"Oh, you'll never do," she said. "Why you're only a boy."

"I may seem so, madam," I replied, "but recall that Shakespeare said that lawyers were best when they were young." Meanwhile, I was studying her face. Her calm was astounding when one considered that she had just undergone a grilling "third degree"—yes, they

did it then just as they still do — at the hands of the police.

"I don't deny that you may be ambitious as well as young," she went on, "but really, the latter outweighs the former. From what I heard I thought you were an older man. I just sent for you to get an impression of you before I decided. My friends already have sent two of the biggest lawyers in Chicago to see me."

I asked her two or three questions, still watching her face. She had dressed her hair low over her temples. It almost touched her eyebrows. I watched it curiously.

"I didn't kill my husband," she went on. "The only reason the charge was brought against me is the ignorance of the police captain. He's a brute. So are his men."

With an angry gesture she brushed back the low-dressed hair nervously from her forehead. "I'm really sorry to have brought you out this bitter night," she said, "but I couldn't afford to take a chance. I wanted to be sure."

It was bitterly disappointing. I shook hands with her as I stood up and prepared to leave. She brushed back her hair with her left hand as she extended the right.

"Farewell, madam, and the best of luck to you," I said. "And, by the way, have the police said anything yet about that fresh scratch over your left eye?"

She started and put her hand to her head. Then she smiled. "Mr. Erbstein, you are my lawyer," she said.

The police had not observed the scratch. But they, as well as the prosecutor, almost laughed out loud when the defense ignored the opportunities for pleas of the "human interest" sort and came out flatly with the statement that the husband had committed suicide. I ungrudgingly granted them their little laugh. It did seem rather preposterous on the face of it that a man shoot himself in the right temple and in the left breast. It seemed like quite a difficult trick, even for an inventor. Also, the

weapon of death was not produced by the state, although the prosecutor did suggest that it had been a revolver. I never understood why it was not produced. Its absence bothered me; but I had been working in other directions.

Unexpected witnesses were uncovered—among them was one who seemed to establish quite definitely that at the hour at which the state declared the woman shot her husband, she was calmly seated at her writing desk, composing a tender poem. Another, and this was the most important, was called to my mind by the Purcell case, in which the eccentric music writer was found dead and bound and gagged. There was a theory of suicide in the Purcell case. That theory, too, seemed preposterous on the face of it.

The witness in the case I am writing of might interest those who held for the suicide theory in the Purcell case. He was a master of the lodge to which the slain man belonged. Before he was called to the stand the state, naturally

enough, had attempted to ridicule the theory that a man contemplating suicide could shoot himself first on one side of his body and then on the other.

The master of the lodge took the stand and told of his long acquaintance with the deceased.

"Was he familiar with the use of fire-arms?" I asked.

"Oh, yes," replied the witness, "he was an expert."

"In what way that you know of did he gain this experience?" I went on.

"Why, when he was a young fellow," said the lodge brother, "he was engaged by the Buffalo Bill show as an exhibition shooter."

"Did he ever tell you of any special trick he had?" I asked.

"Yes, there was one he was very fond of," said the witness, "he was able to shoot equally well with either his right or left hand."

The lady with the scratch over her eye was acquitted.

The Forty Thieves

HAVE you ever gone up to some chap on the street and clapped him heartily on the shoulder? And have you called out some familiar name and greeting? Only to have the man thus addressed coldly face you and inform you that he never saw you before and is not your old friend, Phil? If you have you will be able to appreciate the uncertainties of the identification system. Yet I have seen citizens, perfectly just and upright in other respects, step into a room in a police station crowded with crowds and unhesitatingly "put the finger on"—identify—a suspect. He may be right, of course, but then again—

It is a psychological fact that the average

citizen, victimized in some way or another, is so anxious to make somebody suffer that he will take a long chance to get revenge. It is seldom that I think of the identification system in vogue in Chicago but I recall the most interesting experiment I ever made with the memory of a cocksure witness.

It was in the case of a man named the "Wire," who was what is termed a "bank sneak." The term is expressive enough, typifying the thief who operates in banks, diverting the victim's attention and then fishing bank notes out of his cage with a wire, cane or other tool.

I had defended Eddie and had understood that he was "going straight." But I was not amazed when I received his call for help. He had been arrested on removal warrants, charged with being the "sneak" who had fished a bundle of bank notes out of a bank in Washington, D. C. I obtained his release on bonds and the hearing was set before U. S. Commissioner

Foote for two days later, when the teller of the Washington bank would have time to journey to Chicago to identify the prisoner.

Eddie appeared at my office after the hearing had been set. He insisted that he had never been in Washington in his life and convinced me when he said he always thought the only bank there was the mint and that it had too many guards, from all he heard. "But, just the same, this cashier is as likely as not to identify you," I reminded him. He admitted the truth of that.

"It would be just my luck," he said, "to be lagged for something I didn't do after sidestepping all the things I done."

"Do you know," I asked suddenly, "that you look like a regular thief?"

Eddie the Wire started indignantly. Then he hung his head. "Gee, that's a terrible rap," said Eddie the Wire. "I always thought I had the makeup of a true gent."

"Well, maybe you're lucky this time you

haven't," I told him. "Do you think you could corral a dozen or so thieves in Chicago about your size?"

"Say, I could get you a hundred of them," said Eddie the Wire. "A dozen? Say, between the time I lam out of here and get back I'll have to knock down that many to save my bankroll."

Then I told Eddie the Wire of my little plan. He was very enthusiastic. He left my office grinning.

His hearing before U. S. Commissioner Foote was set for ten in the morning. At 9:30 I met Eddie the Wire in the corridor of the Federal Building outside the Commissioner's office. I had trouble picking him out. Eddie the Wire had made good. He was surrounded by as unlovely a crowd of characters of the underworld as ever made the palms of a copper itch.

"I got just forty of 'em, Eddie the Wire informed me excitedly. "I could've had a lot more, but a lot of the lads are working and this

is their busy time of day. They'll come over, though, just as soon as the rush hour's over."

I told him we probably had enough. The case was called at ten o'clock. As the name of Eddie the Wire was announced I marched into court. Behind me, almost in lockstep time, marched the pageant of thievery. It looked like a living "Rogue's Gallery."

"Where's the defendant?" demanded the prosecutor.

"He's here," I said, waving vaguely toward the collection of undesirables.

"Which one is he?" pursued the prosecutor.

"That's for your witness to determine," I replied.

The chief witness, of course, was the bank teller. Everything else was in regular enough form. It was definitely established that a bank sneak had entered the bank, had diverted the attention of the teller and had then fished out a sizable bundle of bills with the aid of a wire or other instrument.

My cross-examination was brief.

"Can you identify the man you say took the money?" I asked the teller, who had not been made aware of the strange crowd.

"Yes, sir," said the teller.

"Can you pick him out if he's in this courtroom?" I went on. He said he could.

"All right — pick," I invited.

The ranks of the forty thieves stood fast as well-disciplined soldiers. The bank teller stood up. He gazed around. He became extremely worried. He ran over the faces of all in the courtroom in a panic. Then he steadied himself by an effort and went over them one by one. Perhaps he was thinking of the expense the bank, his employer, had gone to in sending him to Chicago. Maybe he felt he should not return without some sort of game in his bag. There was no sign of emotion among the forty as he pointed directly into their ranks.

"That is the man!" exclaimed the teller.

Then the forty thieves for the first time ex-

pressed themselves. They began laughing like a band of brigands about a looted treasure chest. The man the teller had picked out for identification was a Chicago detective who, attracted by the gathering, had followed the forty thieves into court.

Eddie the Wire, of course, was discharged, and the incident closed, except that as we walked out of the building the Wire said to me:

"It's all right to talk about going straight, Mr. Erbstein, and I've enjoyed going that way, but on the level would you blame a guy like me for taking a chance when you see how often the right guy is wrong?"

I tried to be stern and gave Eddie the Wire a bit of homely advice.

"At that, when you come to think it over," mused Eddie the Wire, "that teller fellow wasn't so darned far off!"

Doomed to Freedom

FOR a man who faced an almost certain sentence of a year in prison my client was in an unusually good humor as they took him out of his cell in the County Jail and led him to the Criminal Courts Building. In fact since the con game charge had been placed against him I had not seen him in a more affable mood.

"There ain't any use sheddin' tears over this thing," he confided to me in a cheerful voice.

He was going into the courtroom of Judge Brentano where I had met him in company with his guards when a man who had just left the elevator called out:

"Hello there, Sheppard!"

Levy Sheppard looked around.

"Hello yourself, Tom," he greeted the newcomer.

"Where are you going, Shep?" the other asked, as the guards, good-natured fellows, paused a second.

"I'm goin' down to the big house for a stretch," Sheppard replied.

"No kiddin', Shep, what's the rap?" the other urged.

"I took a guy on the match and pooled for a couple of grands," Sheppard informed his questioner. "An' then I was sneezed with the men on me and it looks tough. My mouthpiece wants me to cop a plea and if I can get a year, I'm going to marry it."

Sheppard's friend then asked:

"You won't need that nifty heater where you're going. I'll give you a double saw-buck for it."

"Sold!" snapped Sheppard, reaching out for the twenty dollars the other proffered. "They tell me it's warm at nineteen-hundred."

As he took off the "nifty heater," his overcoat which would not be needed at "nineteen-hundred"—1900 Collins St., the address of the prison at Joliet—he drew from one of the pockets a pink envelope which had about it an unmistakable odor of "loud" perfume. As he placed it in his inside pocket he winked at me and said:

"I don't mind being lagged for a short time because there's been a broad on my trail for a couple of months, threatening to chive me."

He did not amplify his statement concerning the "broad," or woman, who was going to "chive"—stab—him, and I did not question him about the matter. But I began to see why he had so eagerly grasped at my suggestion that he "cop a plea," or plead guilty, to the "rap"—charge—against him, on condition that the state's attorney would let him off with a "stretch" of a year.

Our case was the first on call. When I went into the courtroom I sat my client down inside

the railing and took Assistant State's Attorney J. E. Northup aside and said:

"My client will plead guilty to this charge if you will be content with sending him to prison for a year."

"Not on your life!" exclaimed Mr. Northup. "He'll go on trial and he'll get more than a year if I have anything to do with it. This con game business has got to stop in Chicago."

I could see that he was working himself into a fury, so I urged him no more.

"All right," I said, "let the trial begin."

The complaining witness was Christ Hanson, a carpenter from Gary, Ind. He had come to town on a little pleasure trip. At State and Randolph streets he had met a man who said his name was Edward Johnson. The man had taken him to a North Side poolroom where he introduced him to Sheppard.

"Sheppard had his coat off and when Johnson said he was the proprietor of the place I believed him," testified the victim.

"I played several games of pool and they let me win $2,000," he continued. "Then Johnson spoke and said, 'If I had won that much from you how do I know whether you could produce it. I told him I could produce a like amount and together we went to the Illinois Trust and Savings Bank, where I withdrew $2,000. Then we went back to the pool room.

"Johnson suggested that Sheppard hold the stakes while I went with him to get the money he owed me. I gave the money to Sheppard and Johnson and I started out. On the way we stopped in a saloon and Johnson disappeared.

"I returned to the poolroom and learned that Sheppard had gone. When I found the real proprietor of the place, he said that he did not even know Sheppard. So I got a warrant out for his arrest."

Things looked bad for Sheppard. He had told me, and testified in his defense that he had merely held the stakes and then had given them

over to a man who had come back to the pool-room and who he thought was Hanson.

The assistant state's attorney made what is generally termed an "impassioned plea" to send Sheppard to prison. Sheppard seemed reconciled, anyway, and not a wrinkle of worry appeared on his face.

The jury left the room. In a few minutes the twelve "good men and true" returned. The foreman arose and cleared his throat.

"We, the jury, find the defendant not guilty!" he announced.

The judge, who was leaning back, suddenly galvanized into action and frowned. All he said was:

"You may go!"

The assistant state's attorney plainly showed his disgust by slamming a law book down on the table. I could not help laughing, as the situation was so funny. Here I had offered to have the defendant plead guilty and take his

medicine, and then the jury refused to admit his guilt.

I turned to see how Sheppard took the verdict. I looked into a disappointed and downcast countenance. He just sat there as though he didn't know what to do.

"Doggone it!" he exclaimed.

Then he remembered his overcoat. It was cold outside. He hurried out and buttonholed his friend.

"Here's 30 bucks — gimme back that heater!" he demanded.

The friend took off the nice, warm overcoat, and reluctantly accepted the $30. As Sheppard placed the overcoat on he began putting back the former contents of its pockets. When he came to the pink, perfumed letter, he gritted his teeth, set his jaw, and fared forth, no doubt muttering over the injustice of mankind.

The Long Arm

MELODRAMATIC writers have a good deal to say about the long arm of coincidence and they say it all upon every offered occasion. If a burglar is picked up here and confesses a crime in St. Louis, they wag their heads like the easily-thrilled ones who declare "it's a small world, after all," on finding that their respective uncles are insured in the same accident company.

But now and then the long arm of coincidence plucks out the wrong subject and it can be as unfeeling as if it were an artificial arm.

I know of at least one occasion where the long arm of coincidence had to reach twice before a mysterious murder was solved, and

meanwhile its clumsiness had caused grave injustice.

It was the case of Roy Blackburn, a young fellow who had been indicted once but found "not guilty" on a charge of robbery. As a result of the indictment it was difficult for him to get work after the trial and it was not until a saloonkeeper on the West Side took pity on him that he could get employment as a bartender.

Even after he was at work, the police, following their tradition in hounding the man who has once been in their hands, kept watching him. It would have been difficult for him to keep his job except that the saloonkeeper determined to fight it out with him.

One day two detectives walked into the saloon, grinning.

"Well, you slipped at last, eh?" said one of them. "Put on your hat and come along."

"What for?" asked Blackburn.

"What for?" said the detective. "Suppose you tell us what for you croaked those two jew-

elers up in Grand Rapids after robbing their shop."

They took Blackburn with them. They had fugitive warrants. It developed that two jewelers in the Michigan town had been shot to death by one of two robbers whom they discovered in their shop. A woman and a man had identified a picture of Blackburn as the man who fired the fatal shot.

Blackburn's employer came to me.

"I've got faith in that boy," he told me, "and I'm with him to the limit. I know something about the way these coppers keep after a man and I want to help him go straight, like he's been going. He was in the saloon, tending bar, the day this shooting came off."

Blackburn was held in the county jail without bond. I spoke with him and in ten minutes I was convinced of his innocence. I, too, have seen many men tracked by policemen even on the straight and narrow path. I traced witnesses whom he named as being in the saloon at

the day and hour of the shooting in Michigan. Two of them were policemen of another sort. They were the best in their line and they were square. They remembered having arrested a man in the saloon on that day and having seen Blackburn there.

I demanded an immediate hearing on the requisition and extradition warrants of Judge Hugh R. Stewart of the Municipal Court, who granted it with the fairness that has always marked his conduct on the bench.

I presented the alibi and nineteen witnesses, including the two square policemen, to back it. The prosecution brought forth the man and woman, who again identified Blackburn as the robber. Blackburn was freed. As he discharged him Judge Stewart said:

"It makes no difference if a man has been convicted of crime twenty times. His guilt cannot be presumed on that. And this boy cannot be presumed guilty of being a fugitive from justice in Michigan." Despite the identification

by the witnesses brought here, he had been positively placed in Chicago at the date and hour of the murder in Michigan."

Regardless of this splendid and righteous speech by the judge, Blackburn was arrested as he left the courtroom on a requisition warrant sent by the governor of Michigan.

The case of Blackburn had become a political issue. I came in for my share of abuse. I have been hammered at enough in Chicago, and, as I have said, "insulted by experts." But one Michigan newspaper printed a gem. This was it:

"Blackburn is defended by a man named Erbstein. You all know Erbstein. Erbstein has an alibi."

Rather neat, I call that. Later the villification grew rougher and the fine artistic edge was lost. Politics was on a stampede. Incidentally, at the finish the Blackburn case entirely changed the political complexion of the county in which the murder occurred.

The second hearing on the requisition of the governor was before a judge no longer on the bench. The very same alibi was presented to him. The prosecution was stronger than it had been before Judge Stewart.

But a United States senator from Michigan had come down to Chicago and had spoken to the judge for some time in chambers.

Blackburn was remanded to the Michigan authorities.

After the bitterest sort of battle, the jury disagreed. It was discouraging. No one realizes better than I the difficulty of keeping track of witnesses during these delays of justice.

Then, while preparing for the second trial, the long arm of coincidence, having made quite as much trouble as possible, reached out again.

There was a robbery in Grand Rapids. Two robbers were surprised as they were looting a shop. A gun fight followed. One of the bandits was killed. The other was desperately wounded. For a time he was unconscious in

the hospital. When he aroused himself they told him that he was going to die.

"Then let me do somebody a good turn before I kick off," said the wounded robber. "They pinched some kid for killing those two jewelers here some time ago, and they tell me the coppers almost got him hung for it. It was me and my pal who got killed last night done that job. We both shot at those jewelers. I hope I missed, but I don't know which one of us hit them. Anyway, the kid wasn't in on it."

For some reason or other the Michigan authorities didn't insist that Roy Blackburn be tried again.

"The Eye That Never Sleeps"

THE Supreme Court has passed on the private detective and it may appear presumptuous for me to attempt to add to its just disposition of these men and their testimony in court. However, my experience with them has been varied and you may find interest in a yarn or two about them. As a class they are an unlovely set. But there are many who are honest and honorable.

If it were possible to enjoy the attentions of such hirelings, I would have enjoyed their attendance upon me during one of the most important trials of my experience. I refrain from naming the trial or the men, that I may not cast discredit upon them. They have reformed and

are trying to win their way back into the esteem of their fellowmen — one as a hypnotist; the other as a biscuit salesman.

Apparently the prosecution was suspicious that I would be up to some sinister legal legerdemain between court sessions. Never throughout the case did it fail to have one, and often as many as four men, assigned to follow me. Their reports must have been as reassuring as they were dull. For this is how they worked:

At that time I lived on Washington Boulevard in Austin. I noticed that one of these sleepless-eyed and restless-footed shadows was always posted on the street-corner opposite. The sensation of being watched is not a pleasant one. But one becomes accustomed to it. I tried to pay no more attention to my guards. Then one rainy, stormy night I glanced from the window and saw the detective, rain-soaked and wind-blown, across the way. I felt sorry

for him, and going to the porch, called him over.

"Don't you know enough to come in out of the wet?" I asked him. "Where's your relief partner?"

"I don't know, Charlie," he said, "I guess he overslept. He should have been here an hour ago."

"Well, don't be a chump," I said, indicating the porch swing. "Take a seat for yourself. There's magazines and cigars. I'm not going out tonight! Make yourself at home."

He did. He settled for the night under a porch light. But before I left him I noticed that, instead of reading a magazine, he had taken a book from his pocket and was studying it. It was titled, "Handy Hints to Hypnotists." I was glad to see him trying to improve himself.

But the private detective instinct was strong, for next night he appeared with his relief partner and both settled for the night on my porch

swing and cigars. After a week I tired of their company, especially one night when they seemed quite aggrieved because I asked them to use the rear porch that I might entertain guests on the front veranda. I told them that their party was over.

"But listen," I went on, "I don't want to make it too tough for you fellows. Go ahead home. I'm not going out tonight and I won't leave here until nine in the morning. You can tell the motorcycle men that, too, and pick me up in court later."

They left. The motorcycle men I referred to were two detectives thus mounted who followed me when I rode to court in my brother-in-law's automobile. I used to wave my hand to them every morning. After court in the evening I'd return to my office to work. First thing I would get a telephone call from my detective boarders.

"What time are you going home, Charlie?" they'd ask and, if it was an early hour, likely as not they'd say: "Can't you make it a little

later, so my partner and I can go to the theater while we wait?"

I often agreed to this. Two or three times I bought tickets for them. Once I cashed a pay-check for one of them. Several times I had them meet me at Washington and Market Streets and took them home in the car.

It was as pleasant as such things can be. And vastly more convenient than such things usually are.

Incidentally, the typical tactics of these men might be a good thing to remember for one who is tempted to employ such sherlocks. I pass over purposely a discussion of the cases I have observed where such conscienceless men have manufactured evidence to break up homes and ruin reputations. Surely, that such crimes are of common occurrence among them is known to the public.

We had some experience with the menace of the spy system during the war. The same menace hangs over every home in the country today

and will so long as the private detective is permitted to prowl and pry unchecked.

The "tapped wire," which, incidentally, is a violation of federal laws, was quickly perverted to the abuses of the private detective. The invention of the dictagraph to him was greater than the harnessing of steam or electricity. Given either device and the lively, cynical imagination of the private detective and the possibilities for evil are unlimited.

An instance of this was discovered in the famous Healey-Barry-Skidmore case in which one of the state's "tapped wire experts" swore to the record of a telephone conversation to "listen in" on which he would have had to have been at two different places miles apart at the same time. He took it very unkindly of the defense, too, when it insisted on declaring that this was an unpardonable fracture of the law of physics.

There was a time, when the "tapped wire" was comparatively new, that half my office

hours were taken up with literally kicking wire-tappers off my wires. Inside of a month one of the young men in my office and I chased no less than 23 of them out of the building when we discovered them trying to tap my wire. Lieut. Wood, later a witness in the Healey case, was one of these.

But they were persistent and I absolutely had to devote some time to my clients. And thus one of their operatives succeeded in cutting in on my telephone. I suspected as much, but I wished to make sure.

This was at a time when one of my former clients was being sought by the police, charged with one of the sensational robberies of that particular period. The police and the prosecutor seemed to think that the man would make some effort to communicate with me. The fugitive's first name was Tom. His second is of no consequence.

The day I suspected that my wire was tapped I received a telephone call. A voice, appar-

ently much excited, said: "This is Tom! The coppers are after me; I want to make a getaway! Will you come and help me?"

"Sure, I will," I said, mindful of the private operative who might be on my line. "Where are you?"

"Over in Morris' bar on Wells Street," said the voice. "Hurry up!"

I hurried over. But fast as I traveled, the private detectives were faster. Their "tapped wire" operative had informed the private detective headquarters that the agency might get full credit for capturing the fugitive. They came tumbling into the place in squads, out of breath and agitated. As they eyed me I spoke.

"I'm sorry Tom isn't here," I said, "and I'm sorry I have put you gentlemen and your agency to such trouble. But I simply wished to discover if my telephone wire was really tapped. The man who telephoned me just a little while ago was a man from my office who stepped across the street for the purpose. I thank you."

For Sale or For Rent

OH, YES, I have hired professional witnesses to swear in court that a defendant was sane or insane, according to the needs of the defense. I might just as well confess it. It's nothing of which to be proud, of course, but neither is the use of poison gas. Yet the army does not hesitate to admit that gas was used as a defensive measure. The other side used it. We had to. So with expert witnesses.

When I take up the discussion of them I wish it understood clearly that I do not refer to the scientific alienist, the scholar of psychology who knows no swerving from what his study has taught him and would not for a moment consider the betrayal of his science.

All too rarely are such masters retained in criminal cases. They are not "for rent or for sale."

The "experts" I refer to are the professional witnesses — the words are used advisedly — whose entire science, if any, is sacrificed at the sight of a fee. They are the ones who, for $50 and upward per day, will judge a man or woman insane or not, according to the wishes of the person who pays the $50.

They are the ones — but let me tell a little story that sums them up rather well:

A newspaper reporter who is a friend of mine was assigned to "cover" a spectacular trial in which a woman was the defendant. The case, after many sensations, moved to a point where expert witnesses who called themselves alienists were summoned. Just before it was time to write his story, my reporter friend encountered in the hallway outside the courtroom a noted, not to say notorious, alienist who had been called into the case that morning.

"Well, doc," asked the reporter, "is she or is she not?"

"To what do you refer?" responded the "doc," icily.

"Nix on the proud and haughty, doc," said the reporter, who knew the alienist's reputation. "What I want to know is whether or not you think the defendant is insane."

"I can't answer, really," replied the alienist.

"But you have been in court all morning," pursued the reporter, "and you've had her under observation."

The "doc" grew suddenly confidential.

"Yes, I've been watching her," he whispered. "But between you and me, old man, I was called over in such a hurry that I didn't have time to ask over the telephone which side engaged me."

I grieve to state that the "doc" was my expert in the case. I had been forced to call him quickly when I learned that the prosecution

had hurriedly summoned other experts. Fire against fire! Poison gas against poison gas!

When I think of the alienist — mind you, I refer to the "professional witness" type — I think of them as I do other quack doctors. Except that it would hurt their trade, they might just as well have outside their offices signs proclaiming:

"Dementia Praecox! Americana Dementia! Furore Transitoria!

"Ten, twenty, thirty!!! For rent or for sale: a complete line of dementias suited to every need! A fresh stock of guaranteed praecox! Temporary and permanent insanity diagnoses! Hypothetical questions a specialty! Examine our goods before purchasing elsewhere! Satisfaction guaranteed!"

And inside the office, the "old doc," garbed, as he actually is, in such stagey trickery as heavy-rimmed glasses or eccentric whiskers, would, if hypocrisy were not a stock in trade, say to his prospective customer:

"You can make no mistake in hiring me. I have the rep. I was an assistant at insane asylums, and I am up on the latest trick words to confuse the jury. I can give opinions so full of Latin that at times I, myself, do not know what I'm talking about. I am aware that scientists hesitate to delineate insanity exactly. They're boobs! I don't hesitate and I get the money."

It is the popular opinion that "insanity expert" is of recent origin. Not to go back to the Middle Ages or behind, we can refer to the history of witchcraft in the early days of this country. In those days the "experts" applied tests to discover whether persons were witches as they do now to ascertain whether the subject is insane. Fortunately, the tests are not as drastic. For instance, one ancient test consisted of holding the subject under water for several minutes. If the subject did not drown, the "experts" declared her a witch, and she was burned. If she drowned it was considered a

vindication of the most complete sort by the "experts."

The alienist as a witness achieved modern popularity in the Harry Thaw case. Attorney Delmas at that time was credited with coining the phrase "Americana Dementia," and engaged experts to make the phrase good by answering a lengthy hypothetical question properly. No doubt such testimony was very costly. There is less doubt that it was highly successful.

Among the real scientific alienists who have worked with me were the men who diagnosed the mental condition of Nellie Higgs as "Furore Transitoria." They were interested from the scientific angle alone. If you recall, I have already told you that the defense was near bankruptcy — both client and lawyer — when Nellie Higgs went to trial.

I am told that the hypothetical question in the Higgs case set a record in length for such things. It took longer to read than the Delmas

question in the Thaw case. The "timers" agreed that from the opening word to the final period that question consumed exactly two hours and eighteen minutes.

Such questions, of course, wind up with the counsel asking a final question such as follows:

"Considering all this and from your own observation of the defendant, Mr. Witness, have you an opinion as to whether the defendant was sane or insane at the time of the commission of the offense alleged in the indictment?"

The answer, depending upon which side has retained the alienist, is either "sane" or "insane." The fee is $50 and up.

I never hear of such a performance but what I recall the old burlesque hit in which a man pretends to translate for a Chinaman. The oriental blabbers away at a great rate for about three minutes. When he has finished, the interpreter smiles blandly and remarks:

"He says: 'yes.'"

In beginning this discussion I likened the

use of the expert alienist to the use of poison gas in warfare. With your permission, concluding I would like to complete the figure.

The prime value of poison gas was that it came as a surprise — when there were no safeguards against it. The enemy allowed the Allies no time to devise the gas mask and put into the field the deadly gases of their own. The Germans already had their masks. With both sides equally armed, the effect of the poison gas for a sweeping drive or a decisive conflict was neutralized. Its only remaining effect was to add a trouble and a torture to war with no advantage on either side.

The prime value of the alienist would be a surprise, indeed, if all alienists agreed to one answer to the deadly hypothetical question. But both sides can devise and prepare questions and alienist. With both sides equally armed, the effect of the expert witness is neutralized. His only remaining effect is to add trouble and

torture to the pursuit of justice with no advantage for either defense or prosecution.

I hope that some day not too far in the future some Hague tribunal or legal procedure will eliminate the alienist as an uncivilized weapon.

The Fool Client

WHEN the story of my indictment struck the streets of Chicago through the newspapers, the State's Attorney was the most indignant man in Cook County — besides, of course, myself.

To rid you of any notion that he was indignant because the false charge had been brought against me, let me remind you at once that for weeks his staff had been carefully building up the case that made me at once defendant and lawyer. No, indeed, he was quite pleased that I had been subjected at last to the insinuating unfairness of this process of legal dealing. He was indignant because the story had been published two weeks before he planned to make it public himself. There was an investigation

and lurid statements and more lurid threats. The investigation bade fair to become as important as the indictment itself.

The mystery of that "scoop"—as the newspaper reporters call such things—simply was this:

I, myself, gave out the story of my own indictment. Does it seem strange that a man in the position I found myself at that time should make such a story public? Permit me to explain a little. At one time in my life I was a newspaper reporter; not a very good one, I fear, but still with enough relish for this most fascinating profession to think sometimes in terms of journalism in a crisis. It seems strange in looking back on the incident but it seemed the most natural reaction in the world at the time I heard of my indictment to think first of all: "What a whale of a story this will be for the papers."

A friend of mine in the Criminal Courts Building had telephoned the news to me; also

that the indictment was to be kept "under cover" for a fortnight or so. I thought at once of a reporter friend, Al Johnson, still in the reportorial game and still one of the best of the real old-timers. He came over and I gave him the yarn.

"It's a great yarn, Charlie," he said, "but why not let it come from them?"

"Don't worry about them, Al," I said. "I have nothing to fear and — I think it's a good story."

And that was all of the mystery that enraged the State's Attorney.

The trial was a "good story," too; but after it began my mind became diverted from the newspapers to "the cause on hearing," as the court clerk has it.

I doubt if the public has a full appreciation of the cruelty of the indictment system. I know that too often it looks upon the mere indictment as an absolute establishment of guilt. I know it forgets that the defendant has no opportunity

of presenting his case to the grand jury — the investigating and indicting body — which makes its decision entirely upon evidence presented by the prosecution. That the trial on the indictment often proves the defendant innocent is likely to be forgotten and only the memory of the indictment itself remains.

That such a system presents a powerful temptation to a prosecutor inspired by motives of political expediency or personal enmity is obvious. That such temptation has proved too powerful, needs no comment from me at this time. But it was with a full knowledge of the injustice of it that I went to trial and began the long fight for my liberty and freedom.

Out of the ordeal I came with an experience which ever since has been of inestimable value to me in defending men and women brought before a jury in the Criminal Court. It gave me an entirely new regard for judge and jury, apart from my former experience. I had seen them as other lawyers of much experience have seen

them. I had known many of the judges and knew that most of them were fine, human fellows, sociable enough out of the courtroom but uncompromisingly strict in their administration of the law.

The jurymen had always divided themselves up into a series of studied facts. Certain nationalities and races were vengeful and hard on the defense. Others were less inclined to prosecution. Faces fell into physiognomical categories. Red-haired men even had their niche. Members of fraternal orders, religions, ages — all were catalogued; but as a defendant I saw these in a new light. The judge, visible only over the top of the bench, became a sort of disembodied spirit of law and dispenser of its sometimes cold and calculating constructions. The jurymen seemed scarcely less inhuman agencies. Twelve men taken from the street, from offices and homes; twelve men such as you might meet anywhere, in the jury box each one became potentially a purveyor of punishment.

Despite a skeptic world, I know that oftener than not the human impulse is toward friendliness and amiability; but it would be stupid optimism to deny that some men placed in a position to cause suffering are unable to withstand the impulse. The early settlers of the United States were an example of this—courageous and splendid men though they were in all other respects.

These things were ground in on my mind as I sat in court as the defendant and heard the prosecutor pound the contentions of the state into the ears of the jury. I became more keenly aware, too, of the little dodges employed by the prosecution. For instance, there is the custom of sitting nearest to the jury that the men in the box may hear all remarks made by the prosecutor in a loud whisper, intentional or not, to one of his associates.

It was a terrific experience. I never get on my feet for a final plea to a jury but the mem-

ory of those days when my fate was in the hands of twelve men sweeps over me.

My first trial ended in a disagreement. I was bitterly disappointed; that I would have to go through the ordeal again and that I was on the verge of bankruptcy were but incidents. Knowing that I was innocent, I had expected a complete acquittal.

Despondent, and with the injustice of the situation rankling in my soul, I went to West Baden for a rest. It was a miserable rest; but I had to steady myself finally and take a survey of the practical side of the situation.

I was conning this one morning with breakfast, when a hearty greeting interrupted me and the late U. S. Senator John W. Kern shook my hand. We chatted about my trial, which he had followed, and he asked me my plans for the future, incidentally discussing attorneys.

"Why don't you defend yourself, Charlie?" asked the Senator. "Why not appear as your own lawyer?"

I smiled and shook my head.

"You remember what Shakespeare says," I reminded him. "He says: 'He who defends himself hath a fool for a client.'"

"You can make a fool out of Shakespeare, Charlie," said the Senator. "My advice is, appear as your own counsel."

I pondered on his words. It was not until the day on which I was to appear before the trial judge, one of the finest of men, for my second trial that I made up my mind; and maybe then I should not have appeared but for the final effort of the prosecution to unfairly confound me before the trial started.

There is a rule of law that provides that in the event the defending counsel is a member of a law-making body, cases in which he is retained must be continued over the sessions of such bodies. My attorney was a member of the State Legislature. It was to convene the day after my trial was set to begin. He had gone to Springfield. Naturally, we expected that

the case would be continued until the end of the session.

The state took advantage of the twenty-four hour technicality. The Judge could do nothing else but order me to appear with counsel. I returned in an hour.

"Is your attorney here?" asked the Judge.

"Yes, your Honor," I said. "He's right here."

"Where?" inquired the Judge, looking over the top of the bench.

"Here he is, Judge," I replied. "His name is Erbstein and he may not be a very good lawyer, but he's got a diploma and everything."

And then we began the selection of a jury. There is no need to recount the racking of that trial. Mindful of what had happened and more conscious than ever of the new feeling I had toward jurors, I threw myself into the battle with everything I had.

I knew no rest and I knew no cheer until the day came for me to address the jury. I spoke

before the jurors as I had never spoken before. Time after time I flung myself against the carefully built wall of false evidence the state had thrown about me. I sought, as I spoke, some responsive gesture from the jury. Then, as I finished one period of my address and leaned quite exhausted against the rail of the jury box, I heard one juror say, with scarcely a movement of the lips:

"You don't have to talk any more. Don't wear yourself out. We've been with you all the time."

I was acquitted by the jury who did not leave the jury box but signed their verdict in open court.

Rags, Ol' Iron, and Bonds

THREE junk men, dealers in rags, old iron and bottles, controlled for a time the freedom and fate of every man or woman indicted by the grand jury in Chicago.

Without the consent of this unlovely trio, no person could obtain bail despite the provisions of the law. With their whimsical permission, influenced by the financial prospect, bonds and freedom could be obtained for the most villainous prisoner — with the payment of a heavy toll in blood money, of course.

Their leader was Gallowinsky. He could scarcely speak the sketchiest sort of English; but he knew all about bonds. Wherefore, he

drove to his place of business, the Criminal Courts Building, in a luxurious limousine and wore glittering diamonds on hands so soiled they seemed glazed. The other two were of the same stripe.

I can see them now, perched at the railing of the bridge floor overlooking the Criminal Courts Building entrance. They leered on all who entered like particularly vicious gargoyles. They watched for possible victims like ravenous birds of prey.

The figure of Justice paled into significance beside the three waiting shapes that really dealt with the Law. They reminded me of some sinister conception of "The Three Fates."

Of course, the three junk men could not operate without influence within the office of the State's Attorney; but this influence they had, and so strong did it grow in direct proportion with the ever increasing cupidity of the Assistant State's Attorney in question, that finally

the trio would guarantee — for a high price, of course — to secure a parole for a convicted criminal or get a continuance of his case.

We will call the Assistant State's Attorney, Sonovich, which is as close to his real name as the one he assumed before he became associated with the State's Attorney's office. Sonovich got his start in the office of an attorney since dead. His duty was "the dirty work." There are still lingering echoes in the Criminal Courts Building of what his former employer said to Sonovich after the latter had obtained office and attempted to "cut dead" his old boss.

"I can't afford to be seen with you," he said.

What the man who made him said in reply cannot even be hinted at in cold type.

Sonovich met Gallowinsky while doing "the dirty work" for the lawyer. Not long after Sonovich's appointment as Assistant State's Attorney, Gallowinsky retired from the junk business, and, although up to this time he had

no property that might be considered security, he became a professional bondsman.

A word about the professional bondsman. The law allows bail in all cases except where the charge is murder and there is a presumption of the prisoner's guilt. The amount of sureties offered must be twice that of the bail set. When the sureties are presented, they are supposed to be strictly examined as to ownership, mortgages, valuation and the rest.

That briefly is the system. Now, it is a fact that the great majority of persons arrested do not own enough real estate or possess enough cash to present bail. Also, it is rare that they know persons sufficiently equipped with worldly goods to do it for them. Thus the professional bondsman.

There is something more to the process. The sureties must be taken to the bond department for inspection by an Assistant State's Attorney before the Court finally signs them. It

is in the power of this assistant either to "O. K." or to reject the bonds.

It is not necessary to dwell on the grafting possibilities offered to that assistant in the bonding department.

Let us return then to Sonovich, the man who did "the dirty work." Let us also observe Gallowinsky and the touching friendship of the two. Let us do it as I have seen it done a score of times. Let us take one specific instance:

A lawyer friend of mine came to me in considerable perturbation. It was impossible for him to have bonds accepted for a certain client. He had brought the best of securities only to have another indictment returned against his client and the amount of bail raised. More securities had been presented. Same result. Finally the bail had reached a point where securities valued at $180,000 were necessary.

"And even after that, they had the nerve to refuse perfectly good surety," said my friend. "My client was indicted because of political

differences with the State's Attorney. I am convinced of that; but you'd think they'd have some decency, wouldn't you?"

"Not necessarily," I replied. "But, tell me, have you received a call as yet from Herman Gallowinsky?"

He replied that he had not.

"Go back to your office," I said. "From what you tell me, it's about time for him to appear."

And I explained about Gallowinsky and his two junk men partners and "Dirty Work" Sonovich.

Sure enough, the next day Gallowinsky appeared, rubbing his dirty hands together and leering. He explained in broken English that he could arrange bonds through his dear friend, Mr. Sonovich, the celebrated assistant to the State's Attorney. There would be the slight matter of $3,500, of course, paid in cash through Gallowinsky. The lawyer agreed to pay.

Despite what I had said, he could scarcely believe that such a character could influence a public official on such a mission. He sent a detective after Gallowinsky. Gallowinsky went directly to an office which Sonovich had occupied for a time when he was in private practice. Sonovich arrived in fifteen minutes.

The next day Gallowinsky called again. He said he would return in an hour with the lawyer's client with the bond already "O. K.'d" and with a deputy sheriff. He added that if the $3,500 was paid, the client might remain at liberty, but that if it was not paid the client would be taken back to jail.

This was done. Gallowinsky got the $3,500. That night, in company with his two unsavory associates, he visited the home of Assistant State's Attorney Sonovich.

My lawyer friend was interested. With one or two others he hired detectives to watch Gallowinsky for a month. Time after time he went through the same transaction.

It was also interesting to learn that the Gallowinsky organization had signed bail to an amount over $2,000,000 with property worth far less than $250,000. It developed that the most valuable piece of property scheduled was a schoolhouse owned by the City of Chicago. Such contemptuous treatment of the law would have been impossible if the bonds of these men had been inspected as other bonds were.

To my knowledge the matter was presented to the courts and there were a few warm hours in which all sorts of investigations were threatened. So far as I know, no action was taken by the State's Attorney, although it did result in a closer scrutiny of bonds by the judges.

Among his other duties, Gallowinsky acted as "stoolpigeon"—informer for Sonovich in cases concerning men of Gallowinsky's religious convictions, if any. The two had been seen dining together in Loop restaurants. It was also charged in one case that Sonovich intimidated witnesses; for this Sonovich was crit-

icized by the Supreme Court in reversing the conviction in the case.

Sonovich had otherwise distinguished himself. From his private practice he brought a ripe experience it is said in jury-bribing and "fixing" cases — disposing of them illegally. His behavior and that of a judge in a political case resulted in a reversal of a verdict and another rebuke for Sonovich from the Supreme Court.

Does it seem remarkable that such a situation could ever have existed in the courts and the State's Attorney's office? Does it seem amazing that men like Gallowinsky and his junk dealing friends could ever operate? Is it shocking to learn that a man like Sonovich might hold public office?

All right. Gallowinsky is no longer at the Criminal Courts Building. He retired with two limousines, more diamonds, and his hands still so dirty they seemed glazed. But his two junk dealing partners are still there.

The Missing Link

SOMETIMES I think that the imaginary Sherlock Holmes of A. Conan Doyle would not be such an interesting and unique character if the detectives in real life were not so extraordinarily stupid and dense.

In another chapter of this series of discussions I have dealt generally and specifically with the private detective and his blundering villainy; but I cannot refrain from recounting another incident of his astounding inefficiency when I recall the trial of Lee O'Neill Browne.

Then, as often before and since, the prosecution saw fit to have me followed day and night by a brace of operatives from a private agency and, from time to time, by city police. They

assisted me in the Lee O'Neill Browne case and it is of this assistance that I write. In doing so and in setting down the narrative of what really was responsible for one of the great sensations in the Browne trial I am penning a record that never before has reached the public. Of course, the detectives are still mystified about it.

Michael Link was a farmer and a member of the State Legislature, who testified for the state against Browne. The sensation came in the second trial when Mike Link's testimony suddenly took an entirely different angle, reacted against the prosecution and helped to show that the accusations against Browne were false.

We on the defense knew that if Mike Link testified that he had received bribes for his vote, he would be lying. From his past life and information that I was able to gather, I was convinced that Mike Link, a hearty big fellow weighing all of 250 pounds, had not come to Chicago willingly as a witness.

I determined to interview Link, which was my privilege. It is for this reason that the state is required under the criminal code to write on the backs of indictments the names of witnesses it expects to call. Among these names I found that of Mike Link. It all might seem very simple but — Mike Link was not to be found. The prosecution, as it always does with important witnesses, had tucked Mike away under guard of a detective from the State's Attorney's office. Mike was the missing Link — if a pun may be pardoned — in the Browne case.

I undertook to find him. Detectives are a self-conscious lot. The one that had Link in charge betrayed himself. I saw him leaving the Criminal Courts Building with Link. I followed. My "shadows" followed me, not knowing that I was following Link and his guard. They went to the Morrison hotel. So did I. So did my "shadows." They covered the solitary entrance of the old hotel. I gave a bellboy a dollar to get in the same elevator

with Link. He came back with the number of their room. That was all I wanted — then.

I went back to the building in which my office was located. My "shadows" followed. I went into my office and then across the hall to another telephone — they were "tapping wires" vigorously about that time — over which I talked to a friendly hotel clerk for whom I had once done a favor. He told me that Link and the police had been in the hotel for three weeks, that they had two rooms and a bath and there were orders from the prosecution to provide them with anything they desired — meals, theater tickets, liquor, cigars, magazines or anything else. Later I obtained some of their hotel bills — bills which were settled by the taxpayers.

I asked my friend, the clerk, to fix me up with the room next to the suite occupied by Link and the policeman and two days later he had it for me.

My detective "shadows" followed me to the

hotel, saw me register and saw me assigned to Room 306. I waited to be sure that they had observed these things and then I approached them and told them I was going to stop there for a few days. There is a rule in the better hotels not allowing private detectives above the main floor. Also, the hotel detective was my friend.

The private detectives were shrewder than most. They refused to believe my plain and truthful statement. As soon as I had had time to settle in my new quarters, they called on the telephone. They asked for Room 306 and I answered; but, I was in Room 718 at the time. Room 718 was the room next door to the suite occupied by Link and the police guard. It had been arranged beforehand that all calls for 306 should be put through to 718.

Link and the detectives were at the State's Attorney's office when I took over Room 718. My friend, the clerk, opened the door between my room and the Link suite. I saw on the table

in Link's room a typewritten copy of the testimony that Link was to give on the witness stand. It had been drafted for him to study and learn "by heart," as the school children have it. I was convinced. I secured an auger. I bored a hole through the wall separating the rooms. It was so located that the table threw its shadow over the puncture. When I left Link's room I bolted the door on my side.

I listened at the hole in the wall. I heard the police officer and Link go over the prepared testimony, with the policeman in the role of the prosecutor. I also had my stenographer copy their dialogue down night after night for five nights.

All this time I was waiting my chance. On the sixth evening my stenographer signalled excitedly for the "listening post." I put my ear to the hole in the wall.

"I'll have to lock you in, Mike," said the copper, "and I know you won't try to get out. I'm just going home to see the wife and kids,

and I'll be back in four hours. There's some booze and cigars and everything. I'll be back at eleven."

He left. I heard the door locked from the outside and the heavy police feet tramping down to the elevator. I waited half an hour, listening to Mike Link pace nervously up and down the room next door. Then I placed my lips to the hole in the wall.

"Mike, oh Mike!" I whispered.

It must have been startling to Link. I could imagine him gazing wildly about the room to locate the source of the mysterious voice.

"Who is it?" he demanded hoarsely. "Where are you?"

"I'm a friend of Browne's," I said. "I'm Erbstein, his lawyer. I want to talk to you. I'm in the next room."

"They said I shouldn't talk to any one," replied Link. "Anyway I'm locked in."

"That's easy," I said. "If you say I can come in, I'll fix that."

"If you can make it, I'll talk to you," said Mike. And five seconds later I had unbolted the door between our rooms and was talking to Link.

"How in —— did you do it?" asked Link, but I was too eager to talk of other things. I had only about three hours for the task, as I wished to allow myself at least half an hour leeway before eleven o'clock.

As I said before, I had a clear notion that Link had not come willingly to Chicago to testify. Within an hour I had the heart story of this big 250-pounder.

"They told me they'd send me to the penitentiary unless I did it," cried Link. "They told me how I'd look in stripes and what a tough life they'd make of it for me in the pen. They told me about how they'd take me away from the wife and children and what a disgrace it would be to them.

"What could I do? I know it wasn't right for me to agree to testify wrong; but I wanted

to save the wife and the children. Honest to God, I didn't care what they did to me."

And I had the whole story. Armed with this information, I faced Link on the witness stand. He "stood up"—that is, he testified according to instructions—for the state; but a worried and harried man cannot be expected to memorize page after page of testimony.

The jury did not place much faith in Link's story even before I took the witness. When, under my cross-examination Link admitted being coerced into testifying and after I had explained to the jurors how he had been forced to the task by threats against his wife and children, well—

Lee O'Neill Browne was acquitted.

One and One-Half Per Cent

THERE are two more great subjects that seem to stir up the general populace.

I don't want to moralize. It is only because I am so vitally interested in people, and their problems, that I think fit to talk about them here.

I have been asked thousands of times if I didn't think that the Younger Generation was going to the dogs, and what do I think of Prohibition.

The youngsters are all right. They are not in need of "saving." They are saving themselves, and against the most ponderous odds.

Jazz is great. It is youth. It can't hurt

anybody. One of the first rules for keeping young children out of trouble and to prevent them from turning their thoughts inward upon themselves is to keep them active. Exercise keeps many a young man from wanting to play around with light women. Exercise helps many a young girl in the pleasant weariness that comes from gymnastic pursuits. All educators know this. Tire out the body and you keep the mind from precocious or obsessing sex ideas.

That is why jazz is one of the best influences we have in the world today. Jazz dancing is not sensual dancing. It is lively and fast. Could anyone get a sensuous reaction out of the Charleston? Put a lot of normal, animalistic young men and women on a dance floor, give them plenty of jazz, and at the end of the evening they don't want to stay up any later petting. They can't get home and to bed fast enough.

Reformers overlook this very obvious fact

when they rave against jazz. They talk about keeping youngsters out of doors and in athletics. Like all of their ilk, they forget that boys and girls like dancing. So when they see them dance they fling up their hands and put all sorts of wrong ideas in heads that would never have had them otherwise.

Jazz music is inspiring and a bit intoxicating. It sends feet twinkling and arms swinging and bodies swaying. It can work out more of the "old Satan" than hours in a gymnasium, leaving the young people happy and comfortable.

So much for jazz and its influence.

Prohibition is the insiduous, evil thing that undermines the moral resistance of not only youngsters, but oldsters.

I am quite prepared to have the Extremists point their fingers at me and hiss loudly when I make this statement. That doesn't annoy me. I am too old a fighter to keep my mouth shut at this late date when I have a conviction.

And my earnest, honest conviction is that there is more drinking among people who never drank before, than there was in the pre-Prohibition days.

I suppose I have the realist's contempt for statistics. I am told that there are plenty pro and con. I have seen numberless headlines in the papers advocating this or that point of view.

I don't read accounts of straw votes. I pay no attention to pamphlets or brochurs giving the number of people per state who drink and those who don't and who is a bootlegger and why. I can't get interested in accounts of federal activities to stop liquor from being toted around.

All that I know is what I see in my own experience, and what I know as a man and citizen.

I know, for instance, that prohibition is costing me, personally, thousands of dollars in taxes that I would not have to pay otherwise.

I know it is costing me thousands of dollars in other ways, and that I am not getting as good stuff. I know that if I take a drink outside of my home I am running a personal risk. I know that I am doing something I never thought to do — deliberately breaking a law. But show me somebody who doesn't! I don't think I know five people in the world who don't break that eighteenth amendment every time they get the chance — and that goes for some pretty important people too!

I see men and women whom I love and respect taking the keenest pleasure in thwarting the federal men who are paid their own money to keep them from drinking. With one hand they contribute to the support of the sleuths, with the eye that never sleeps and the feet that never rest, and with the other they buy more liquor. That's funny — you know it is. Now, I am a bit sentimental. All men who deal in stern realities are apt to have odd bits of sentimentality in their make-up. So while I follow

the usual path and take as keen an interest in the price per case as the rest of them, it always hurts me just a bit to see these people, many of whom have been my idols and inspirations for years, doing what I am doing. That is just my sentimentality talking there. On the other hand, I'd think they were silly not to take what they want if they want it. And in retrospect, I blame the Prohibition Law for this outrage to my sentimentalities, rather than those who break the law.

Does anybody obey the Prohibition Law? A few. And a mighty few. Again I speak, not from statistics, but from the most practical sort of observation. That's all I care about. If your experience is different from mine, then your opinion is different.

But I have found the Demon Rum more of a factor in my law work than he ever was in the good old days when a man could take a drink without gulping down a bottle, just because he had the chance. Maybe the suffering isn't as

widespread, but it is far greater where it hits, and it hits in more places where it is felt.

For instance — speaking from my observation once more, I never before saw a party of high school kids with hip flasks in every male pocket.

Nor have I ever known business men to keep their drawers and lockers full of whisky. In the old days if a man wanted a drink he went down to his club or a hotel and got it — he didn't keep it in his desk.

Nor have I ever seen so much hard stuff consumed. I can remember when the average paterfamilias, coming home to a birthday dinner of some member of his family, would buy at the corner drug store or grocery store a bottle of mild Virginia Dare wine and the whole crowd would drink it and feel very devilish and gay. And now what? That hard stuff — delivered by the case and no little family gathering complete without a bottle or so served up.

That's enough. You get the idea. I could

go on for pages and give a lot of "horrible examples," but what's the use? Some day we'll take a good, square look at what is going on and get the low down on ourselves.

The kids are drinking too much. Before prohibition, the finest home I knew, a home in which there were children of the high school and boarding school age, used to have a light wine and cordial at every meal. The kids had their small glass of wine or cordial, whichever they preferred. They didn't think it was wicked to drink. I remember overhearing one of the boys talking to a friend once. His friend was urging him to go somewheres and have a "swig." The son of my friend laughed. "That's nothing," he said, "I can get that at home if I want it."

The daughters of my friend, when they went out into the world, were not, in consequence, affected by the first drink they took. They were used to normal, decent and reasonable indul-

gence. And not one of those children has turned out otherwise than splendidly.

Evil associates and environment are what hurt. The curse of prohibition is that it brings our young people into contact with a class they would not know otherwise. If you have children, stop and figure that out for yourself.

If you want to safeguard the Younger Generation, pile on the jazz, and repeal the Eighteenth Amendment.

"What Is Wrong With My Husband?"

THIS isn't a chapter on psychology. A little of that may slip in here and there—but don't let it fool you. It is just a handsome word, and it's nothing but old Dame Human Nature dressed up in a lot of clothes.

There is one sin that mankind—and I regret to say, especially the masculine side of mankind—simply cannot overcome. A human being can rise above horror, pain, fear, and even death itself, but not flattery!

That sounds like an anti-climax, doesn't it? Well, it isn't. If someone asks me what I consider the greatest single motivating force behind crime and passion and even murder, I should unhesitatingly reply "flattery."

Isn't it self flattery when a murderer on trial whose pictures adorn the front page daily gets ideas that make him think he can outwit all the forces of law and order?

The newspapers deluge these fellows with such pure, unadulterated and wholesale flattery that it is no wonder they get delusions of grandeur.

Ask the men who handle criminals after they are jailed. Ask any lawyer who defends them. Ask any Judge. You will be told invariably that the more vain a law-breaker is, the more dangerous he is.

Flattery is something you can't combat. It is as insidious as a serpent and as fatal as the serpent's bite.

And it is the one cause for marital trouble and divorces that cannot be fought or in any way helped.

Let us begin with a hypothetical case. We have two young people in love. The man is supposed to be a genius. The woman is very

clever herself. Both paint, they are well-known artists or actors, or make the hypothetical couple what you will. They marry. For several years they live very happily. All the time the man struggles for his future, fame and fortune, and the woman, like a true, good wife, is sitting at his feet helping him. She not only keeps a home for him but she also descends into the valley of the shadow of death to bring him children. She flatters him—but in that flattery is enough common sense and good judgment to make a real artist, lawyer, doctor, or anything you like out of that man. Soon her brand of flattery begins to grow flat. Then he meets another woman who says, "My God, you're wonderful!"—and that other woman is smart enough to leave out the rest of the sentence which the wife has to add in order to keep her "genius" on the ground! The wife's flattery must always have a "but" in it. She has grown up with her husband's work, mind, and she knows how to direct it.

Then the husband begins to get angry at his wife's criticism. Then we hear that sad, age-old and hackneyed statement, "My wife is a good woman but she doesn't understand me. So-and-so does." It just means that he is tired of hearing his wife praise him—often with some reservation or other—and has gone to another woman to hear the same old song sung in a different key. When Ulysses stuffed his ears with cotton wool he wasn't so dumb after all.

Now here is where the real man shows. I would say that nine out of ten men come to this state of affairs at some time in their life. The man with stamina falls as hard as the other kind—but he doesn't stay a boob. He comes to himself, takes a good look at all the issues involved, realizes that after all both women are only women and that he cannot get anything so VERY different from the new one than he could from the old one; and, in short, he comes to his senses. Maybe he has been

brought up to have a strong ethical feeling of right and wrong. Then he feels very sorry for himself for a while, but ends up by being decent. He has had his little emotional fling. He ties the bull outside and settles down to his home and his children and begins to appreciate the fact that his wife isn't so bad, and he remembers that she gave him some good advice about this or that, feeling all of a sudden as though he had come safely to shore after swimming through a stormy, heavy sea.

The man without nerve is the kind that allows himself to believe that the ILLICIT love is the only enduring, *Perfect* love—the one sanctioned by God if not by man! He gets all worked up over his affair—says that the other woman is the only one who ever understood him—gives her letters to his best friend to keep, and his best friend usually blabs all over the city about what marvelous letters they are, and tells the poor boob privately that he is doing the right thing, that the woman "under-

stands" him. Hell! That man isn't looking for love. He's just holding out his hands and flapping his ears for flattery—more and more flattery—any kind of flattery—tributes to his personal charm, his brain, his "sensitive, delicate nature" that needs three or four women to keep it going.

One day a regular "mama's" boy—big, strapping, handsome, with a darling sister, a couple of brothers, a few aunts and a doting papa, called upon me with his "mama." What a wonderful boy her boy was, according to "mama," and how the big sponge sat in my office soaking it all up. He married poor little Mary. And while he was out soaking up flattery and cheap booze and letting people admire him for being brave (he served six months in an army cantonment) she was working and saving his money, doing all the housework and telling her big he-man of a husband what a great, wonderful fellow he was.

But it was pretty hard to think up enough

flattery to satisfy "mama's" boy. In the first place he had had it served up to him in job lots by his family before he married Mary. His mother was one of that sort who called him her "big, wonderful boy," and of course coupled with all the idolizing relatives referred to above, what chance had poor little Mary? I guess after he married he missed the volume in his hallelujah chorus. So he took to going home to "mama" and leaving little Mary alone. Then he began to meet a set of nice, clever young ladies who all, like his mother, thought he was simply grand. And his mother told me that Mary didn't know how to appreciate her big, wonderful boy.

That dear mama thinks I am a bad man because I told her that I could see no reason to start suit against Mary and that I was only sorry that Mary had not called upon me, instead of mama and her darling boy. She had done nothing to mama's boy except to flatter him.

It is too bad—but men are like that. Espe-

cially men who are what I call "tainted." The breaking point comes in from five to seven years and thereafter. New faces—new flatteries attract them. If they have the right sort of stuff in them, they get through this time as quietly and quickly as possible. But when they do give up the good wife, as many of them do, they soon realize that they aren't getting anything from the new that the old could not give, and the good wife has the advantage of being the mother of his children. They wake up pretty sick and mad at themselves, at the world and more especially at the women whom they run away with. They think about the wife, they wonder about the children and the peace and security that once was theirs. Some of these men are often said to be geniuses, some call them eccentric—to me they are just plain every day "quitters"—they never see themselves as others see them.

Lawyers get as much flattery as anybody. If anybody should coo "Oh, aren't you wonder-

ful!" I would take a long look at the photos of my kiddies. Maybe my wife doesn't serve me molasses all the time but she does hand me a fine, wholesome diet of understanding and common sense. And when I feel the need of flattery I have only to turn to my youngsters and I get the sweetest, the most sincere and the most enduring kind of flattery from them—the one phrase that means everything to a man —"My Daddy"! There isn't a thrill in this wide world like hearing a child say "Daddy!"